CRIMINOLOGICAL THEORIES AND MODELS OF LAW ENFORCEMENT

SUMMARY

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ACADEMIC YEAR 2019-2020

Lesson 1 (24/09/2019):

Not all **criminological theories** are equal. Some theories fit their purpose better than others. With this course, you can identify the good theories. You'll also know the key points of selected past and contemporary criminological theories. What's new, is the focus on non-mainstream theories. Besides theories, this course handles **models of law enforcement**. The more important aims are to reflect and learn to be critical.

There is **no consensus on definitions** of theory. SCHUTT claims it is a logically interrelated set of propositions about empirical reality. For positivists these propositions are comprised of three things. First of all, positivists claim theories are etiological. Therefore, definitions are important: sentences introducing terms that refer to the basic concepts of the theory. Besides that, functional relationships are a part of a proposition: sentences that relate the basic concepts to each other in a casual way. Lastly, propositions comprise operational definitions: sentences that relate some theoretical statement to a set of possible observations. For positivist, success of a theory depends on its testing. Other scholars have looser understanding of theories. For example, 'grand theories' can't be tested, or even mere concepts can't be tested.

There is also **no consensus on theory value added**. For some theories these are not necessary. For others, including BOTTOMS, some engagement with theory is necessary to practice social science. That's his first proposition. You'll need an object to observe. It is called constructivism. Social phenomena can only exist because they are created by those who are involved. The second proposition is that there is a world out there and we can judge which interpretation is nearer to the truth. It is called realism. It is the point of view from which there are indeed realities independent of the knower, even though knowledge can only approach these realities from a theoretical loaded way. Without commitment to realism and etiology, no crime prevention or other policy interventions are possible.

There are **different types of theories**, for example theories in epistemology, ontology and methodology. There are also substantive theories (in our field: about crime and criminal policies), for example etiological (mostly but not exclusively about crime: biological, psychological, sociological, integrated theories). But in criminology and other social sciences also we see concepts and General Social Theories ('GST'). Lastly, there are normative theories.

We can **classify** theories by two continuums: (1) individual behavior and social behavior and (2) passive and active subjects. The theory of Lombroso is, for example, a passive-subject individually oriented theory (PS-IO-T). Within criminology, you also have what HENRY and MILOVANOVIC call the politically activist criminologies/theories (PA-T). The activism sometimes comes in the way of good analysis, because the main aim is to change the way instead of understanding it. There are also non-etiological theories, linked to concepts, GST and normative theories.

There is **no consensus on etiological theories**.

	Individual Behavior	Social Behavior
Passive subjects	Passive-subject individually oriented theories (PS-IO-T)	Passive-subject socially oriented theories (PS-SO-T)
Active subjects	Active-subject individually oriented theories (AS-IO-T)	Active-subject socially oriented theories (AS-SO-T)

A question we can ask ourselves, is if criminology is a **cookbook**. Are some theories better than others? Which criteria should we use to identify 'good' theories?

Lesson 2 (01/10/2019):

The two **key propositions** of BOTTOMS are really important. First of all, we are committed to **realism**, not relativism. There is a world out there and we can judge which interpretation is near to the truth. An interconnection is necessary. You also cannot speak reality without concepts. Some scholars speak of the 'theory-leadenness of observations'. There are no theory-neutral facts. Some engagement with theory is necessary to practice social science. In other words, we need **constructivism**. Some of these constructivists do go too far away. BOTTOMS throws three implications of these propositions. First of all, without commitment to realism and etiology, no crime prevention or other policy interventions are possible. Secondly, theories can be evaluated on the basis of their fit with real world. Some theories interpret the reality better than others. The third implication is a positive one: accumulation of knowledge is possible.
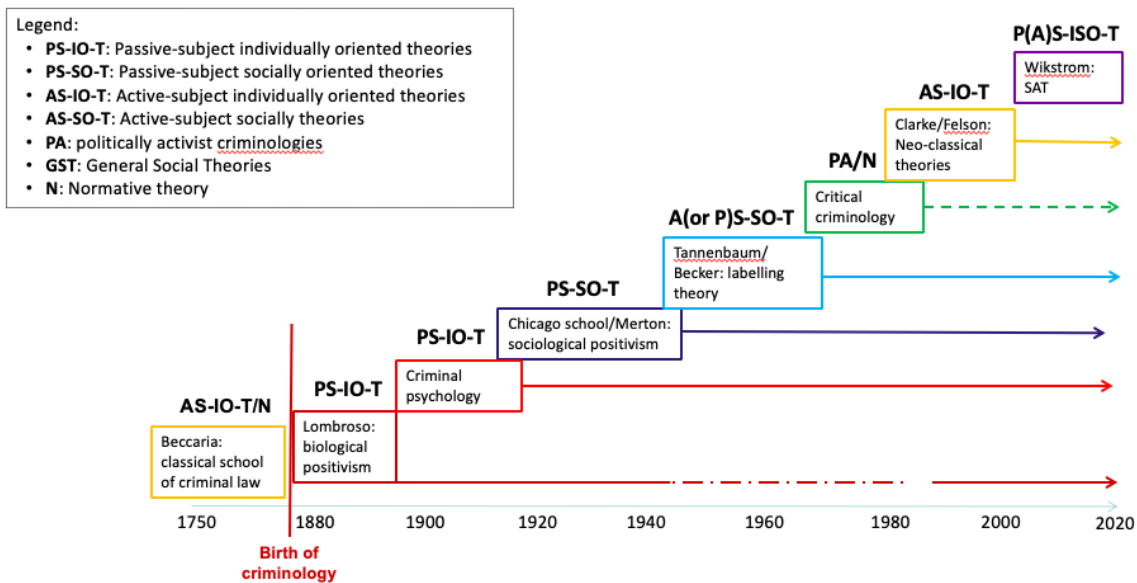
There are different types of theories. Mostly, we'll talk about **substantive theories**, with etiological (biological, psychological, sociological, integrated theories) and theories in social sciences with concepts and GST. **Normative theories** are also important. There are also **'background' theories**: theories in epistemology (philosophy of nature of knowledge), theories in ontology (philosophy reflecting on being and nature of human condition) and theories in methodology (philosophy of scientific method). BOTTOMS claims that the theory/data relationship in criminology has changed over time, with related changes in ontology, epistemology and methodology. Al these theories can be **classified**, for example in the two continuums of HENRY and MILOVANOVIC.

When we talk about criminology, first of all the **classical school** comes to mind. The most celebrated classicist authors are BECCARIA and BENTHAM: two political theorists engaging in normative theories. Both BECCARIA and BENTHAM assumed that human beings were rational, therefore had a focus on punishment to prevent crime. Crime was not a descriptive concept. Usually this is not yet considered as the academic criminology. The classical school had some empirical common-sense assertions, but no systematic research. The theory/data relationship was deficient, but the normative theorization is good.

The first 'real' criminologist was LOMBROSO introducing the **positivism**. They wanted to import the natural sciences, emphasis on observations, neutrality and causality, the focus on the 'criminal man' and on few 'natural crimes'. It was a hypothetic-deductive approach where an experimental method in evaluations and a quantitative approach are important. In general people realize that our study objects are fundamental different of those in natural sciences.

Until the '60s, criminology remained positivist. LOMBROSO's explanation was later substituted with other factors. There were **three attacks on positivism** since the 1960s. First of all, from **labelling and ethnography**: dismissal of causality, focus on definitions/meaning, deviance, interpretative understanding, inductive qualitative methods. The variant is constructivism: it denies theory-neutral facts, seeks to deconstruct actors' world view. The **neo-classicism** marks the second attack, where the rational man, focus on opportunity, few empirical analyses of actual choices and decontextualization of offenders are important. The neo-classicism had two variants: rational choice and routine activities. The third attacks are, what BOTTOMS called, the more political theories: **conflict, radical, Marxist theories**. The strengths of these theories are the emphasis on the normative dimension. The criminology also wants to change it, instead of just understand it. Their passion to change is so big, it sometimes comes in the way of doing good research. There are also advocacy statements not based on research.

On the next page, you can find a timeline in HENRY and MILOVANOVIC's typology.

Legend:
- **PS-IO-T**: Passive-subject individually oriented theories
- **PS-SO-T**: Passive-subject socially oriented theories
- **AS-IO-T**: Active-subject individually oriented theories
- **AS-SO-T**: Active-subject socially theories
- **PA**: politically activist criminologies
- **GST**: General Social Theories
- **N**: Normative theory

P(A)S-ISO-T

Wikstrom: SAT

AS-IO-T

Clarke/Felson: Neo-classical theories

PA/N

Critical criminology

A(or P)S-SO-T

Tannenbaum/ Becker: labelling theory

PS-SO-T

Chicago school/Merton: sociological positivism

PS-IO-T

Criminal psychology

AS-IO-T/N

Beccaria: classical school of criminal law

PS-IO-T

Lombroso: biological positivism

1750   1880   1900   1920   1940   1960   1980   2000   2020

Birth of criminology

BOTTOMS claims that there are **five approaches** to criminology: (1) classicism, (2) natural science-based positivism, (3) active-subject socially-oriented criminologies, (4) active-subject individually-oriented criminologies and (5) political-activist criminologies. These approaches have positive and negative features.

A positive feature of **classicism** is the emphasis on a normative dimension within criminology. Crime is not a stable concept: actions criminalize and decriminalize. However, the classicism has no empirical research. **Natural science-based positivism** also has positive features, for example careful and precise observations, scientific detachment and the search for causes and explanations. The negative features are the assumption of theory-neutral facts, weak ability to handle the normative dimension within criminology and assumption of equivalence of natural and social science. The **active-subject socially-oriented criminologies** can be described as an ethnographic type of work. There is no assumption of theory neutral facts and careful observations based on immersion in the social world are being made. Besides that, there is an emphasis on meaning of social actions to actors and on cultural/normative social bonds and an emphasis on need to deconstruct actors' frames of reference. However, it often shies away from theoretical generalizations and search for causes and it can relapse into relativism. The **active-subject individually-oriented criminologies** exist of the routine activity and the rational choice theory. It emphasizes on reasoning powers of subjects, and of constraints on individual action. It also over-emphasizes on individual rational-choice and therefore decontextualizes human subjects. Lastly, the **political-activist criminologies** emphasizes that research and knowledge is itself part of a political process. Its political goals can override the search for truth though. We should try to find an approach that integrates the positive features of those theories.

The major question hasn't always been why crime happens. Even within etiological criminology, there are **different questions**. LOMBROSO and other traditional positivists ask themselves why some people become criminals. Which factors (biological, psychological or social) determine criminal behavior? These are theories of propensity. The control theories, for example the Social Bonds Theory (HIRSCHI), oppose the question why only a few people commit crime. The neo-classicism is about why crime occurs. Which environmental factors determine/favor occurrence of crime? So even within etiological criminology, different questions are asked.

Doing empirical research, there are three **'methodological theories'**. First of all, there is the **hypothetical-deductive method/theory**. One starts from the theory and then tests hypotheses, generates middle theories and prioritizes quantitative data. The weaknesses are that it assumes theories can be tested against the real world without problems and that it can restrict the researchers' focus. Secondly, the **grounded theory** is an inductive theory that prioritizes qualitative data. It also assumes the existence of theory-neutral facts, though. The **adaptive theory** of LAYDER is a more realistic option. There is a constant interaction between theory and data. One starts from theoretical scaffold, but this can be changed to accommodate new information, both inductive and deductive. It's a theory that fits what happens in the reality. It is both deductive, and inductive. Through adaptive theory positive features of all approaches can be maximized.

BOTTOMS claims that **the work of SAMPSON and LAUB** is an example of good (and evolving) data/theory relationship. Their 1993 book ('Crime in the Making') was a reanalysis of a sample of 500 male delinquents (and a matched control sample of non-delinquents) originally studied by GLUECKS (1950). It was a developed age-graded theory of informal social control (turning points), but deterministic. Recognizing neglect of agency, the 2003 book collected data up to age 70 and made 52 life-history interviews. They interviewed 'persisters', 'desisters' and those with 'zigzag criminal careers'. Their conclusion was that desistance is facilitated by turning points in combination with individual actions.

In **normative theories** crime is a label in our society to express 'censure'. There are many societies that compensate for murder. It is not always necessary to punish. It is a normative way to view crime. "Doing criminology necessarily entail some agreement with normative issues." The normative theory seeks principled answers to 'ought' questions. Normative theories should proceed analytically and can be supported by data. It does not seek scientific truth, though. It has often been neglected in criminology but should be granted more recognition. For example, **policy recommendations** always entail normative theorizing. To reduce crime, a policy recommendation is a normative view on crime and is a choice.

If there are no causes, there is nothing to explain and prevention is not possible. So, causation is key, but not well understood. In criminology there is still poor understanding of casual mechanisms, lack of integration of levels of explanations and poor definition of crime (explanandum). First, we need to ask ourselves what causation is. **Causation** can be seen as a regular association: "if C, then always E". The ability to make a prediction is key in this view. But a cause must not only be correlated, it must also be responsible for the effect. Causation is the process that connects cause and effect and brings about the effect. If there is no connecting mechanism, cause is only symptom or marker. Predictions do not necessarily imply causation.

       Gender, age and race are attributes and cannot be causes. They have no power to initiate mechanism that bring about an effect. The criminology is still stuck in risk factor approach, though. We need to move to a more explanatory approach. We need to make a difference between necessary and sufficient causes. Sufficient causes are more likely in case of crime. There are many sufficient causes, but only two causal processes for WIKSTRÖM: habitual and deliberative process. There is also a causal interaction: intersection of two or more factors sets in motion a causal process producing an effect. For WIKSTRÖM crime results from interaction between individual and setting. Lastly, there is also a difference between causes and causes of the causes. Immediate causes point out why a person decides to steal something and causes of causes explain why this person has come to consider stealing something as an acceptable option. Immediate causes explain a specific crime in a very specific moment and context.

Secondly, we need to ask how causation can be established. The best method to establish causation is manipulation of cause: **scientific experiment**. In social sciences only correlations are often possible. Establishing causation through experimentation does not necessarily provide explanation. Importantly, the theory is necessary to identify mechanism (beyond risk approach) and it has not been done enough. Empirical analyses serve to test causal hypotheses.

A & A Criteria	Definitions
Focus	Main question theory addresses
Type and range of theory	Substantive/normative, etiological or not, PS/AS or IO/SO Specific crime/all crimes, criminal policy (intervention) or GST
Ontological assumptions	External world: yes/no; objectively experienced: yes/no; man: free will/determinism
Epistemological assumptions	Neutrality/Involvement of researcher + Explanation/Interpretation
Research methods (and related methodological theories)	Quantitative/qualitative Hypothetical-deductive/grounded/adaptive theory
Scientific quality	Internal consistency of theory/Empirical confirmations/ Causal mechanism/Integration of levels of explanation
Other (de-)merits	Innovative/policy relevant topic or approach, other strengths or weaknesses
Fitting/non-fitting cases	Examples of crimes/criminal policy interventions (not) covered
Policy implications	Policy measures drawn from theory

If criminology is a **cookbook**, which criteria should one use in establishing 'good' theories? There are a few criteria, which you can see on the left. TVERSKY quoted: "A part of good science is to see what everyone else can see but think what no one else has ever said". It shifts the perspective.

For example, the Social Bonds Theory of HIRSCHI:

- Focus: Why do only few people commit crime? Aimed at all crimes
- Types and range of theory: Substantive and etiological - Positivism: Passive socially oriented subject
- Ontological assumptions: External world: yes // Object. experienced: yes // Man: determinism, deviance is natural
- Epistemological assumption: Neutrality // Explanation
- Research methods (and related meth. Theories): Hypothetical-deductive // Quantitative: self-report surveys among high-school students
- Scientific quality: Four variables are poorly defined (control variables/social bonds, elements of the social bond); unclear where four variables come from // Empirical confirmations are only partial (only for attachment and commitment) // Assumption that deviance is natural is not convincing // No understanding of causal mechanisms: chicken and egg problem/no explanation of four control variables // Causes are social but poor link with individual behavior //
- Other (de-)merits: Theory is innovative for turning around key question about crime: Why don't they do it?
- Fitting/non-fitting cases: Applicable only to youth deviance // Less fitting for other crimes // Cannot explain different types of crimes people engage in
- Policy implications: Increase social bonding through better parental and school supervision

In **conclusion**, no empirical research (or policy) is possible without theory. We have seen that there are different types of substantive, normative and "background" theories. We have also seen that the relation theory/data has changed in criminology. Each of the main approaches has positive and negative features. An important conclusion is that through adaptive theory positive features can be maximized. We've also seen that causation is emphasized by positivists, but poorly understood criminology often stops at risk factors. For full explanation, theory is necessary.

Lesson 3 (08/10/2019):

SAMPSON did a lot of research in Chicago. In 2012 he wrote **'Great American City'**. It was an ambitious, dense book: a culmination of a decade of research. The book its aims are broader than crime. It was a development of a general theoretical approach to understand persistent neighborhood effects and changes in cities. The collective efficacy of a community is very important. There are some sociologists that say that the community is less relevant, because of globalization. SAMPSON says that it's still important where people live and what interactions they have. In order to provide a full explanation, you'll need a theory. We need a social mechanism that is not empirically observable but can be a causal mechanism. It's important to realize that the theory is not a complete theory, because it focusses on the meso-level, not on the single individual. The meso-level is the intermediate level, the level of the community. He uses 'ecometrics' to demonstrate neighborhood effects.

 SAMPSON'S **Theory of Collective Efficacy** has relations to the Chicago School. In Chicago there are different kinds of circles, different kinds of zones. The transition zone was a zone with a lot of crime because of a high level of social disorganization. Therefore, community-level variations in social control contribute to varying crime rates. The weaknesses of theories concerning social disorganization are broader, though. At first, poor communities are not always disorganized. Secondly, it is a tautology that crime was initially used as an indicator of social disorganization. Later on, density of social ties was used as indicator, but this caused new problems. Strong personal ties may also impede social control or be used for crime purposes. 'Weak ties' can also be useful. To find a job, you can also rely on acquaintances, not just your close friends or family. Those ties can still be helpful. Moreover, it is clear that in contemporary cities control cannot be based on personal ties only.

Community life matters but is less static and does not depend on basic indicators. Collective efficacy is the answer to that and SAMPSON stresses it as **two components**: social cohesion/trust (collectivity part) and shared expectations for social control (efficacy part). At first sight social cohesion/trust is the opposite of social disorganization, but not quite. It is the structural part. It starts from the idea of social disorganization that social control is a collective achievement but relaxes its assumption that dense ties are necessary. The focus is on agency, rather than structure: what people do. This idea is known from BANDURA'S idea of self-efficacy: the believe each of us has in its ability to complete tasks and reach goals. SAMPSON believes that collective efficacy depends on concentrated disadvantage, racial segregation, immigration and residential instability. But it has independent explanatory power.
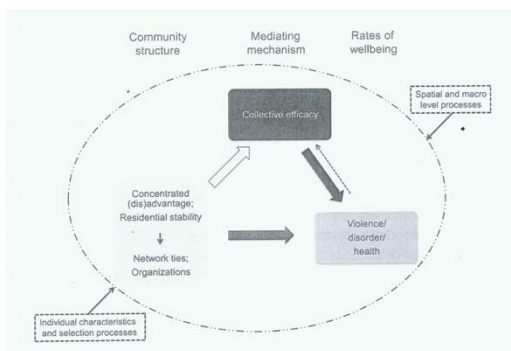
A **conceptual framework** is shown. An area of high level of violence is most likely to have a low level of collective efficacy.

Ecometrics, a strategy to evaluate quality of ecological assessments, as proposed by RAUDENBUSH & SAMPSON, is used for research about the collective efficacy theory. This strategy is considered a science of ecological assessment aiming to measure the community's social and institutional processes. These processes are treated as ecological or collective phenomena rather than as stands-in for individual-level traits. Two main methodological components were used: detailed observations in the community and community-based surveys focusing on these processes.

Shared expectations about social control were tested with five-item Lickert scales. Respondents were asked about the likelihood that their neighbors could be counted on to take action if for example children were spray-painting graffiti on a local building. Social cohesion (the trust component) was measured by coding if respondents agreed that for example people around here are willing to help their neighbors. RAUDENBUSH & SAMPSON found that **collective efficacy** varied widely across Chicago neighborhoods and was associated with lower rates of violence measured by independent methods, while also controlling for concentrated disadvantage, residential instability, immigration concentration and a set of individual-level characteristics, as well as indicators of personal ties and density of local organizations. It's a dynamic process in which prior violence depresses collective efficacy (e.g., because of fear of cynicism), while collective efficacy helps stave off future crime. Another key finding was that the association of concentrated disadvantage and residential instability with higher violence declined after collective efficacy was controlled, suggesting a potential causal pathway at the community level. Lastly, collective efficacy is fostered by local organization and voluntary associations.

To discover whether there are common relationships in highly disparate cities and if so, in what dimensions, SAMPSON compared Chicago with **Stockholm**. He set up a similar research in Stockholm as he did in Chicago a few years earlier. He then concluded that the collective efficacy theory is transferable to both cities. It sharply declines in both Stockholm and Chicago as concentrated disadvantage increases. Same results emerged despite less violence and disadvantage in Stockholm than in Chicago. There exists a negative relationship between collective efficacy and the expected rate of violence based on a neighborhood's disadvantage, stability and minority/immigrant composition. Although Chicago has a higher level of violence, collective efficacy is directly linked to lower violence in both cities.

PRATT & CULLEN reviewed more than 200 studies from 1960 to 1999 with meta-analysis. Its analysis found that collective efficacy has a correlation of -0.303 with crime rates. It is ranked fourth ahead of poverty, family, disruption and race.

Collective efficacy is **situational**. It reduces local crime, but it does not predict the violent offending propensity of its residents, because it may occur elsewhere. It is not just associated to crime, but also with reduced domestic violence, asthma, birth weight, increased self-rated health and other rates of well-being.

In a **review of HAGAN & RYMOND-RICHMOND**, they praise SAMPSON's book, his concept of collective efficacy and its methods. The work was a needed correction of the individualist bias of the 'Age of Reagan' criminology. It challenged this criminology by reasserting a sociological emphasis on context and by using time and place to leverage this shift (the 'Age of Roosevelt' criminology). Both collective efficacy and its methods are innovative, they included sampling neighborhoods with careful attention to class and racial composition. Collective efficacy is a foundational element of group empowerment. As SAMPSON typically uses this concept, it refers to an internally driven process, with collective efficacy emerging from inside a community and expressing itself in the preventive collective willingness to intervene and respond to criminal behavior. It is thus empowering for the community. Community cohesion and trust are key elements of this kind of collective efficacy. The social and collective efficacy with which genocide was accomplished in Sudan involved a process of defining the perpetrator and victim groups in an 'us' versus 'them' justificatory framework. Closer at hand, SAMPSON concludes his book by considering the home foreclosures that followed the 2008 financial crisis in Chicago. When borrowers could no longer make payments on loans, the banks rationalized that they needed to repossess the homeowners' properties. Thus, the banks rationalized their foreclosures as their willingness to intervene and respond.

WIKSTRÖM'S Situational Action Theory (SAT) is a theory that discovers why people commit crime. Criminologists sometimes focus on an aspect, but often it does not provide a full theory. The criminology is unable to fully address problem of crime causation, mainly for three reasons: unclear definition of crime, lack of theory of action and poor integration of levels of explanation. Many of the past theories are theories of crime propensity, why some people commit more crime than others. We still don't know why. There are four key issues that need to be addressed to explain crime: what crime is, what moves people to commit crime, how personal and environmental factors interact and the role of broader social conditions and individual development. A scientific explanation requires both theory and empirical tests.

But what is the **definition of crime**? Crimes are actions that breach (moral) rules of conduct (defined in law). All kinds of crimes are covered: general theory. The theory of crime is a special case of more general theory of why people breach rules of conduct. It's not a moralistic approach. WIKSTRÖM says that laws try to tell people what is right and wrong. Sometimes there is a difference in what the law says and what people think. Here there is a high level of compliance. Moral rules are linked to moral values and emotions. These consist primarily of shame and guilt. The theory is not complete. There are still people who violate rules of conduct, because they don't know these rules or are ignorant. And is there always a morality in law?

The acts of crime (C) are the outcome of a perception-choice process (>) that is initiated and guided by the interaction (x) between a person's crime propensity (P) and criminogenic exposure (E). The formula therefore states: P x E > C. The factors that influence development of a person's crime propensity, the emergence of criminogenic settings and people's exposure to such settings are called "causes of the causes". This is the **key proposition of SAT**.
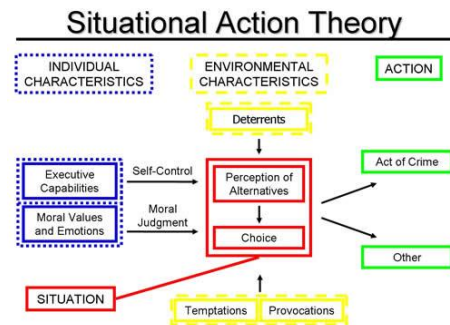

Situation is about perception and choice causes that lead a person to crime. The immediate causes are a person's crime **propensity** (which depends on morality (moral rules and moral emotions) and the ability to exercise self-control) and a person's criminogenic **exposure** to settings (which depends on the moral rules of the setting and their level of enforcement). Crime usually does not occur when there is a conversion of these two casually relevant factors. In most cases we don't see crime as an option. We have a **moral filter** that prevents us from seeing it as an option. This moral filter (the outcome of the interaction between personal morality and moral norms of the setting) provides action alternatives.
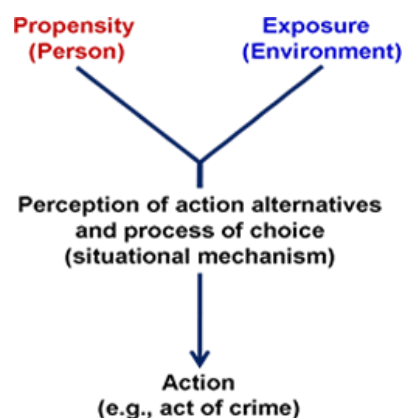
The **two key situational mechanisms** are the perceptions of alternatives (process by which an individual recognizes possible options for actions) and the process of choice (the process by which an individual evaluates different alternatives and decides upon which to act (deliberation v. habit).

At the beginning there is a **motivation**, an objective we want to reach. It is a necessary but not sufficient cause, because crime can be committed by a lot of motivations. We can have the same motivation and still someone commits a crime and the other one does not. The moral filter
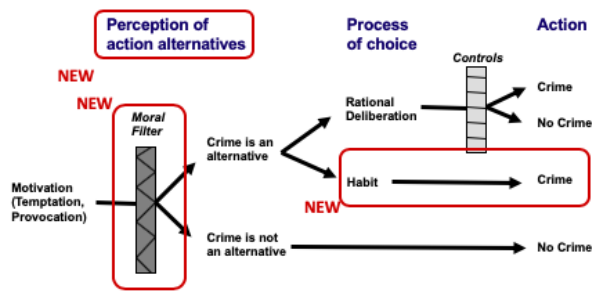
decides if a person considers crime as an alternative, or not. When crime is considered an alternative, the **process of choice** can make it a habit (and crime is committed) or it can be a rational deliberation. **Controls** then influence the process of choice and crime may not be committed: internal (through process of self-control) and external (through process of deterrence). They are only relevant when there is a process of deliberation. It is important to see that morality is splitted from control.

The causes that have been identified are causes that usually operate before the commission of a crime. One has to pay attention to the **causes of the causes**, because these can explain a certain crime propensity, why a setting has a criminogenic potential or why some people are overly proposed to a setting. For SAT causes of moral action/crime are situational rather than individual or collective. The systemic factors are the causes of the causes though.

WIKSTRÖM had a big empirical project, the **PADS**+. It is a study that collected data from youths throughout ten years covering three main topics: individuals, environments and exposure. When combined, this data allows to study innovatively interaction between participants' individual characteristics and experiences and their exposure to different kinds of environments. They found that many young people commit crime, but mostly only occasionally and a less serious nature: one third reported no crime involvement and a small group of offenders (5%) are responsible for a bulk of 55%. People with high crime propensity and criminogenic exposure have greater crime involvement. Areas with high presence of crime-prone people and high-level of criminogenic traits have a greater concentration of crime. Crimes occur when people with high crime propensity converge in criminogenic settings. Lastly, some are crime resistant, other crime prone, depending on propensity.

The basic assumption of SAT is that acts of crime are the outcome of a perception choice process initiated by the interaction between a person's crime propensity and exposure to criminogenic settings. In order to understand the causes of young people's crime and the patterns of crime in an urban environment, the **person-environment interaction** is critical. The most effective ways to change young people's crime involvement will be through (1) measures that influence the development of their morality and ability to exercise self-control and (2) measures that influence the moral norms and their enforcement in the settings in which they act. A study focused on social and situational dynamics, but more work is needed.

This leads to important **policy implications**. First, we need to focus on the moral filter. We have to make people not see crime as an action alternative. That is the most effective crime prevention measure. It is mainly achieved, in the longer term, by influencing young people's moral education and cognitive nurturing through the activities of key social institutions (e.g. family and school). Secondly, we have to focus on crime habits. Preventing the development of crime habits, and breaking existing crime habits, should be the key aim of crime prevention. It is mainly achieved by counteracting the development of environments supportive of crime and young people's prolonged exposure to such environments. Lastly, we need to focus on controls. Influencing people's choice process when they consider whether or not to commit an act of crime is an important part of crime prevention. It is achieved in long term, by affecting people's ability to exercise self-control, and, in short term, by enforcement creating deterrence and situational crime prevention measures.

MESSNER is an author of the institutional anomie theory that, according to some, can be combined with SAT to explain characteristics of settings. In his review on the SAT he was full of praise. The theory was called theoretically informed and methodologically sophisticated. He had some minor criticisms though.

Firstly, he said that measurement of key concepts is not always ideal. There is **'slippage'** between the definition of the setting and the operationalization (e.g. between measurement of exposure to a criminogenic environment and the theoretical concept). Similarly, although **'morality'** appears as a multidimensional concept in SAT encompassing moral rules (moral values and moral emotions) its measurements is limited to a rather simple scale that only captures selected aspects of moral rules. In addition, the authors of the SAT acknowledge that a key feature of the perception-choice process underlying crime has not been addresses in their analyses – **motivation**.

Below, you can find the **A&A criteria** of both SAMPSON'S Theory of Collective Efficacy and WIKSTRÖM'S Situational Action Theory:

SAMPSON'S Theory of Collective Efficacy

A & A Criteria	Sampson's CE Theory
Focus	How does societal context influence crime?
Type and range of theory	Substantive // Etiological // P(not fully)S-SO-T // Neo-positivist
Ontological assumptions	Neo-positivistic, i.e., external world: yes // Objectively experienced: yes // Man: probabilism
Epistemological assumptions	Neo-positivistic, i.e., neutrality + explanation
Research methods (and related meth. theories)	Hypoth.-deductive/ quantitative
Scientific quality	++ Highly consistent // strong empirical confirmation // clear understanding of causal mechanism // major improvement in comparison with broken windows theory // - - no integration of levels of explanations
Other (de-)merits	++ Very innovative methods // very policy relevant // CE can also be applied to other institutions // -- -- neglect of opportunities (and hence less explanatory power for property crime)
Fitting/non-fitting cases	Neglect opportunity, does not explain why individuals commit crime
Policy implications	Enhance CE, above let organizations develop, holistic policies to reduce concentrated disadvantage

WIKSTRÖM'S Situational Action Theory.

A & A Criteria	Wikström's SAT
Focus	What are the causes of crime? Why do people breach rules of conduct? // Youth crimes
Type and range of theory	Substantive // Etiological // P/AS-I/S oriented theory (perhaps still a bit more passive than active, given emphasis on causation)// neo-positivist
Ontological assumptions	Neo-positivistic, i.e., ext. world: yes // Objectively experienced: yes // Man: probabilism
Epistemological ass.	Neo-positivistic, i.e., neutrality + explanation
Research methods	Hypothetical-deductive and quantitative.
Scientific quality	++ Very consistent, excellent theory // helpful generic definition of crime and better definition of control (moral rules + self-control + external control) // Good understanding of causal mechanism, for the first time real focus on causation of crime // Unprecedented integration of levels of explanations // Balance between causes and free will //Explicit, fully developed theory of action with innovative emphasis on perception process and habit // - - causes of causes not well defined //crime not distinguished from other legal violations
Other (de-)merits	++ overcomes divide between person and environment-oriented theories of crime // - - concept of crime conflates levels of morality and law: it risks implying that moral rules are always positive and need to be respected (eg., homosexuality
Fitting/non-fitting cases	++ generic theory // - - not applicable to psychopaths, people with limited mental capacities or unintentional crime (e.g., traffic offences) // cannot explain different levels of crimes across societies
Policy implications	Increase individual's morality and, in short term, self control and controls in settings; prevent consolidation of crime habits //

Lesson 4 (15/10/2019):

We can only understand the feminist perspectives on criminology if we understand the context. There are feminist movements that define the feminist criminology. They change but are always there. Therefore, they are described as **'waves'**.

The **first wave** (suffrage) was a very slow wave. It is rooted in two ideas: (1) enlightenment and French revolution and (2) slavery abolitionism. From the 1700s to the 1900s voting for women was the main target. Mary Wollstonecraft wrote about the male description of women, not the real woman. Elizabeth Cady Stanton wrote about the non-Western voice of women, more specifically Iran. Sojourner Truth had an important speech, called: 'Ain't I a woman?' She is mocking the male description of women (weak, vulnerable) and is also accusing the mainstream white feminism. Women haven't been political subjects for long.

The **second wave** (women's liberation movement) was around the 1960s-1990s. Equality in every area (family, sexuality and work) was the main object in that wave. The sameness / difference debate was an interesting and ongoing debate in feminism. The most influential work was 'The Second Sex', written by Simone de Beauvoir. She looks at research and literature and wonders why women are defined as 'others' and 'inferior to men'. Another book is from Betty Friedan. She was investigating American housewives and she was starting the so called 'problem that has no name'. They were wondering why women won't wear joy. Kate Millett linked sexuality with politics and was therefore controversial. She analyzed literature in a very critical and somewhat radical way. bell hooks writes about the position of black feminists. Another strong voice in the black feminism was from Audrey Lorde. She also speaks to the white women. Another more Mexican voice was from Gloria Anzaldua. She writes about women in the middle, around the border in every sense.

From the 1990s to now, we have a **third wave** feminism. We are more focusing on difference. We are women, we are proud to be women. There are postmodern and post-colonial theories with intersectionality (not only gender, but also race and class), queer feminism and positive sexuality. It has also been called the 'girly feminism': an expression of having grown up with feminism. Another thing that was happening was a debate, the 'feminist sex wars' between sex-positive feminism and anti-pornography and anti-prostitution.

Now there is some kind of sense that we are in a **fourth wave**. When you're in something, it is more difficult to define. We are now riding the wave. There is a lot of protest. Women are not taking it anymore. The #MeToo movement was and is an important movement. It is a massive movement and that's new. Social media is also doing something to it.

Before we talk about the feminist perspectives on criminology, we have to talk about a few **myths**. The first one is the lack of objectivity. The depictions of women are made exclusively by men. The systems of knowledge are male-centered and men's experience are taken as a norm and generalized to the whole population. The feminist project is to expose the distortions and assumptions of androcentric science. The second myth is about a narrow focus. What feminist criminologists do is to displace men as central actors and give more attention to women. The critique is based on entitlement: whose reality is worthy of description and who can be trusted to get it right. Feminists pay a lot of attention to gender relations and masculinity is also a myth. The aim is to describe and change both women's and men's lives. All social institutions are a 'woman's issue'. The third myth is THE feminist analysis, because the feminist analysis or theory does not exist. There is a set of perspectives which are linked to different assumptions.

A more accurate way to describe feminist thought is as a set of perspectives. There are a few **main perspectives** that are important in feminist criminology. Liberal feminism is focusing on gender role socialization as the primary source of women's oppression. It is questioning the fact of biology and saying that we learn to be women (cf. de Beauvoir). Radical feminism identifies patriarchy or male dominance as the root cause of women's oppression. Marxist feminism attributes women's oppression to their subordinate class status within capitalist societies. The main problem there is capitalism. Socialist feminism combines radical and Marxist feminism to conclude that women's oppression results from concomitant sex- and class-based inequalities. Postmodern feminism interrogates the social construction of concepts and challenged accepted criminological thrusts. Black feminism and critical race feminism are centered on the experience of black women and women of color and as such view women's oppression in terms of simultaneous gender- and race-based disadvantage. It is more known in the United States of America than in Europe.

We need to ask ourselves **what feminist analysis is and what is non-feminist analysis**. Are all actions undertaken by women feminists? Can an action be feminist even though those who perform it are not? A scholar's gender or the focus cannot be used to distinguish feminist works. A theoretical and methodological point of view is defined by how you frame the question and interpret the results and not by the social phenomenon alone. Research on women or gender differences is not by itself feminist. Feminist inquiry is not limited to topics on or about women.

There are a few **elements of a feminist analysis**. Gender is not a natural fact but a social, historical, cultural product. Gender and gender relations order social life and social institutions in fundamental ways. Gender relations and constructs of masculinity and femininity are not symmetrical but are based on an organizing principle of men's superiority and social and political-economic dominance over women. Systems of knowledge reflect men's views of the natural and social world; the production of knowledge is gendered. Women should be at the center of intellectual inquiry, not peripheral, invisible or appendages to men. Theorizing of gender (doing gender, gender regime, gender identity, gender order) is important.

The first works of '**the Awakening**' was around the 60s. Frances Heidensohn and Marie-Andree Bertrand drew attention of the omission of women from the general theories of crime. There are **two problems**. The first is the 'generalizability problem'. Can general theories that describe men/boys' offending apply to women/girls? The second is 'the gender ratio/gap problem'. Why do women commit less crime than men? It is interesting to discuss about that. When you learn a new theory, think about it. Can it apply?

The **pioneers** in the 1970s are women like Rita Simon and Freda Adler that are very different from each other. Simon and Adler are more liberal feminists. The **features** are more important. Feminist criminology was born during the second wave of feminism. It is a comprehensive critique of the discipline. Another feature is the exposure of criminology as the criminology of men. Women were often sexualized when men talked about women offenders. Besides the social field, a lot of feminists complained about gender discrimination in law schools and the criminal justice system. The critique went very wide. Simon and Adler claimed the so called '**emancipation thesis**', that liberation causes crime. Female criminality had been kept in check by women's limited aspirations and opportunities. If women will start to occupy men's roles, they will act and think like men and therefore commit crime. This was a controversial view but an important thesis to keep in mind. After the pioneers, we see a very important rise of feminist **empiricism**: feminists doing research. This sort of research is largely atheoretical. It is looking at gender as a variable.

Something else that has been theorized about is **women's victimization**. There was a lot of attention to female victims and survivors of men's sexual and physical violence. Naming female victimization and taking it seriously had not been done before and therefore it raised public consciousness (cf. #MeToo) and resulted in an impact on policy. Here, men's violence is linked more easily to patriarchal power. What they found out is that rape and violence are far more prevalent than previously imagined. Other **significant findings** were that police, courts and juries do not take victims of rape seriously, especially in intimate relations. Myths about rape and intimate violence are prevalent. Female victims feel stigma and shame, male offenders minimize their behavior. Strategies for change include empowering women to speak up, shelters, and legal advocacy, and changing men's behavior.

There is a critical notion, the **carceral feminism**, that is accusing parts of feminism of having too much faith in 'the siren call of law'. They are accusing it of being co-opted by the neoliberal agenda of punishment, contributing to the evolution of criminal justice as an apparatus of control, especially directed towards men from minority or marginal groups.

More and more women are accused of crime. This has increased to disproportional levels. There is an idea of why this is happening: **backlash politics**. A lot of things are happening: rise of right wing, 'war on crime', denial of women rights, rise of racism and media complicity. The first thing that is attacked when the right wing rises, is the women studies. Another question was made. Is there a **gender bias** in the criminal justice system? The chivalry thesis states that women are treated more leniently than men by the criminal justice system. The double deviance theory states that women are treated more harshly by the criminal justice system because they are guilty of being doubly deviant. The double jeopardy (now intersectionality) theory now states that ex. Black women are sentenced for their crimes and for their marginalized status.

Another theory is what we could call the **masculinization theory**. Especially in the UK, there was an increase of articles and press that talk about 'bad girls' and 'violent girls': moral panic. It assumes that girls are becoming more like boys: same forces that push men to engage in violence push women. There are simplistic notions of good and bad femininity though.

Another explanation for the gender gap is the **criminalizing of women**. The mandatory arrest of domestic violence backfired, and increasingly more and more women were arrested than men for the thing that was supposed to work in their favor. Besides that, there is more zero tolerance, a different police behavior (influential towards arresting women), net widening, from welfarization to criminalization, an increased reporting, a 'youth problem' and media influence.

Another term to explain the gender gap convergence is **vengeful equity**. By making women more visible, did women become too visible? Sherriff Arpaio said: "I don't believe in discrimination in my jail system. Crime knows no gender and neither should punishment".

In conclusion, not all analysis made by women, or gender-based analysis are feminist analysis. We cannot speak of feminist theory of criminology, but only on feminist perspectives. These perspectives were born during the second wave of feminism. Early feminist work focused on the need to incorporate women in all areas of criminological debate and were largely empirical. The first questions asked by feminists in criminology were whether general theories of crime apply to women and why there is a gender gap in crime. Gender remains the strongest predictor of criminal involvement. Later work introduced a more critical consideration of the concept of gender and pushed criminology to recognize gender as a social construct and not simply as a statistical 'variable'. The most significant achievement has been naming and describing female victimization, raising public awareness and impact on policy. Points for concern are the expansion of a 'carceral feminism' and a convergence in the gender ratio.

Lesson 5 (22/10/2019):

First of all, **cultural criminology** is not a theory. It is a criminological perspective developing in the last 25 years. It is a paradigm within critical criminology and has American and British roots. It is an interdisciplinary area of work that draws influence from, and seeks to reinvigorate, pre-existing traditions in the sociology of crime and deviance / critical criminology and is therefore a reaction to the 'orthodox' criminology. It is a perspective that (claims to) uniquely addresses crime, its representation and its control in an era of 'late modernity'. It introduces new influences into criminology (e.g. phenomenology, crime/media nexus) and explores the multi-faceted connections between (consumer) culture and crime.

By definition, areas of criminology tend to dominate the discipline in various regards. The focus here is on the criminal event itself and the situational factors and influences, as well as incapacitation. Most of the times, it is removed from more critical and sociological ways of thinking about crime. Cultural criminology helps in creating 'a moment of hesitation and contribute somewhat to the growing skepticism with regards to the widespread desire to quantify every aspect of the human condition'. Many cultural criminologists would identify themselves as radical criminologist. The **criticisms of orthodox criminology** react against the right realism (rational choice theory, neo-positivist Bell Curve Hypothesis and administrative criminology). The orthodox criminology is problematic on several fronts. It is misleading positivism; it has a lack of sociological insight and it politically harmful.

Situational crime prevention believes that it is easier to change/manipulate environments than to change people. This is way more cost-effective and can be measured easily to see if it an effective method. Research indeed suggests that some crime is prevented though the use of situational crime prevention techniques. The negative features are the displacements of crime and that it does not address all crime (focus on 'conventional' crime and limited utility against the expressive and irrational crime).

Cultural criminology rejects 'orthodox' criminology because crime and its control are highly political. Crime prevention agencies like simple, straightforward theories. Besides political, it is also highly emotional. Criminology has too long been removed from crime's cultural and political context, where criminology fits into wider discussions of about politics, history and social change. It is reliant on numerical / 'scientific' analysis and removed from the immediacy of crime. 'The Criminological Imagination', a quite philosophical work of **FERRELL** et al. is a book that is against 'the empirical turn', which means that the type of data is important. It goes against 'state institutions' and 'methodological politics'. It is a model used to characterize large swathes of orthodox criminology. The methods that are used in cultural criminology are about 'Verstehen', 'understanding'. It uses ethnography, media analyses, narrative criminology, visual methods and participative action research.

In its critique of 'orthodox' / administrative / right realist criminology, cultural criminology represents a 'hybrid orientation' that openly draws on prior paradigms. This can arguably be traced through the perspective's interest. To some critics, however, this renders the boundaries of cultural criminology problematically unclear, and raises the possibility that cultural criminology itself adds little or nothing that is 'new' to criminological thinking. Its **theoretical influences** come from sociological understandings of crime and deviance. It is firstly inspired by traditions of interpretivism and subcultural theory (beginning in the Chicago School). The American version focusses on semantics: crime is non-utilitarian, malicious and negativistic. The British version focusses on political resistance. Besides that, it is also inspired by the strain

theory, the labelling theory and the Marxist, critical criminology. The first main assumption of the **labelling theory** is that crime is a quality present in some kinds of behavior and absent in others. 'Crime' therefore is a social construct. Both the labelers and the labelled became objects of study. The other main assumption is that state intervention reduces crime by scaring offenders straight, rehabilitating them, or incapacitating them. The labelling response is that pulling people into the system makes them worse, not better.

We come from an age with a lot of insecurity. We moved from the 'Golden Age' to the **Late Modernity**. The nation state was less important, because of the globalization. The identity is less important. There are a lot of presences that have an effect on crime. The consequences that we are describing are material and ontological. It is a hyper diverse world, partly because of the media. Not only the economy is changing, also immigration is more and more real. We fill the void with consumerism: who you are, is based on what you buy. If you want to be someone, you have to buy yourself an identity. It gives us material uncertainty with anxiety and anger about our material status. Inclusion and exclusion occur concurrently – a bulimic society where massive cultural inclusion is accompanied by systematic structural exclusion. A lot of people have a feeling of 'Vertigo', where people feel like they will fall into a lower class at an instant and therefore always have to watch their balance. This Vertigo has impact.

What do perspectives tell us about the foreground of crime? KATZ speaks about the **'emotional' foreground of crime**. Crime tends to be either understood deterministically or through notion of 'rational choice'. He executed a case study about the emotional excitement of shoplifting to make his point. Property crimes conducted by young people possess appeals beyond material gain and peer approval. The key point here is that aside from any objectively identifiable reward involved in crime, criminal activity is often charged with various (often unrecognized) emotions in the moment. At times, they are experienced alongside other 'rewards' and at times, the emotional experience of committing the crime may have been the only reward pursued. Crime thus possesses its own 'seductions' – acknowledging and understanding this requires focussing less on background, or obvious benefits, and focussing more on experiences of crime as and when it occurs. The edgework experience is one in which the individual's failure to meet the challenge at hand will result in death or, at the very least, debilitating injury. They are 'high-risk' pursuits involving 'voluntary risk-taking' on the edge. They all have seductive elements: a controlled loss of control.

In Late Modernity, **lifestyles with seductions and edgework are rationalized**. It kind of pushes you to an abnormal activity. Cultural criminology is more about transgression, instead of crime. Transgression is wider than crime. Transgression reinforces and reproduces social norms and structures. The emphasis on crime's emotional dynamics is used prominently in cult crim's critique of orthodox criminology. **In conclusion**, the study of emotions is a long-neglected theme in criminology. KATZ and LYNG's work offers a starting point – one pursued by cultural criminologists. The study of emotions has potentially significant implications for criminological theory and crime management – especially given the prominence of rational choice understandings in current approaches.

Traditionally criminological analysis of the **media** has centred on news media and tried to understand what we see, why we see it and the potential effects on society. Cultural criminology grapples with a more contemporary (late modern) context in which crime appears throughout various media. The (visual) media has changed from simply conveying information or telling interesting stories about crime, to actually shaping and producing its reality. Crime is consumed in the media and also advertised (e.g. video games)

There is also some **criticism of cultural criminology**. The criticism of the feminism is that cultural criminology is an academic boys club, in line with 'malestream criminology'. It also ignores feminist perspectives and focusses on male subcultures. The second criticism is that of the romanticism: the romanticizing of crime. Thirdly, the politics say that it is all foreground, no structure. It does not have enough attention for political structure, not politically engaged enough.

In conclusion, it is best to think of cultural criminology as a perspective, rather than a singular theory – as a collection of contributions united by shared orientation and influences. This flexibility remains a possible strength and a weakness – benefits of open, invitational approach, but critiques of vagueness. "No one criminological position can or should be valorized above all others. Rather, criminological theories have particular roles to play at particular times in particular settings and contexts" (Ferrell et al, 2008, p. 70).

Lesson 6 (29/10/2019):

There is no such things as '**critical criminology**', but there are different versions. It is not just one theory or perspective, but a range of perspectives united by two central features. Briefly put, critical criminological perspectives have addressed crime and control while offering a radical analysis of capitalist power relations and advocating substantial political change. REIMAN talks about criminology as having a special burden: it has the burden of having the object of its study determined by the state. The result of it is that criminology bears a special responsibility: it must either declare its independence of the state or serve as an arm of the state.

The critical criminology **emerged in the 1970s** but is continuing today. It was set up as an alternative to mainstream criminology: against the subordination of criminology to law and order interests. Generally speaking, this is a left-wing critique of mainstream criminology. A lot of it is Marxism. As an extension of the Marxism, they are advocating for a more inclusive society, for a significant social change. There are a lot of criminological traditions, such as Marxist criminology, left realism, feminist criminology, zemiology and cultural criminology.

When we look at the origins of critical criminology, we see a **Marxist focus** on social and class inequality. Marxism is an analysis of capitalism and a recipe for social change. Capitalism is based on money and profit: a machine based on making more and more money (profits) by producing and selling commodities. Within the process of industrialization, MARX talks about the exploiting of labour for profit: it is an instrument, a means to the end of profit. There is a class system – broadly speaking: those who labour (most of us) and those who profit from the labour. On this basis, Marxist' analysis claims that there is a clash of class interests: conflicts. Within this dynamic, poverty and unemployment are functional to capitalism. We have this wide gap between rich and poor. One of the puzzles is that we accept this as natural. This is not directly challenged throughout everyday working life. MARX described class consciousness as to be aware of the class conflict. False consciousness is not realizing the situation and for Marx this is the everyday outlook. They don't understand their situation and the inequality. Marxism also claims that capitalism has a tendency to crisis. To make more and more profit, individual interests are more and more important which results in competition. At some point, nobody oversees the idea of capitalism which then results into major crisis. Capitalism sews the seeds of its own destruction and will inevitably fall. A lot of attention is focussing on the state. MARX claims that the state does not always oppose the interests of the working classes but will negotiate and make compromises. This tendency to criticize the state goes back to the thoughts of REIMAN: "it must either declare its independence of the state or serve as an arm of the state."

BONGER was a Dutch criminologist who talks about the selfish greed. Capitalism is a culture of **egoism**. The rich are legitimately (but also criminally) greedy, but the poor are illegitimately greedy. The criminal justice system permits the selfish greed of the rich but criminalizes that of the poor. He was the first to write about corporate/business crime.

The Marxism doesn't propose a solution. The **left realism**, more radical in its analysis, agrees with the critical criminology and Marxism, but is much more engaged in its policy. When we talk about its background, we can see two things. Firstly, the right realism implemented more simple measures to deal with crime. Their solution was tougher policing and more punishment, especially prison. Secondly, they were critiquing 'left idealism'. It broadly was a more Marxist, labelling approach. Left realism realizes that we should acknowledge the harms done to the working class by crime. Critical criminologists ought to offer some kind of realistic intervention. Left realism tries to integrate critical criminological thinking into more

conventional debates about crime, law, and order. It deals with 'causes' of crime to focus on the problem of class inequality, social exclusion, and relative deprivation. If we want to reduce crime, we need political policies to address the causes of exclusion and precariousness. We can do a lot about the crime problem. We also need to address unemployment/under-employment and low wages and we need to strengthen the welfare state and social housing. The left realism can be described to be radical in its analysis and realistic in its policy.

For the most part, left realism has lost credibility. **In the 21st century** the cultural criminology, Ultra-Realism and deviant leisure (also zemiology and green criminology) are the more leading, alternative perspectives in critical criminology.

Cultural criminology is the placing of crime and its control in the context of culture; that is, viewing both crime and the agencies of control as cultural products - as creative constructs. It focusses on meaning, representation and power and distinctly on emotions and phenomenology. It is a criminology for late modernity – attuned to the prevailing social and economic conditions.

      Ultra-Realism is an alternative innovation in critical criminology. Its main figureheads are HALL and WINLOW. The fundamental question is why some individuals and groups risk harm to others as they pursue their instrumental and expressive interests rather than seek solidarity with one another. Ultra-Realism is advocating political change and starts from an extreme political pessimism: backdrop of financial crisis, environmental degradation, rising nationalism, and a lack of an alternative to capitalism… we are in a mess. But ideology works negatively in our contemporary context: it doesn't convince us that capitalism is great, but simply tells us no other system is better/possible. It knows a few influences, for example the victimology or the feminist criminology (focus on victimisation), the left realism (focus on harm and background causes). When one describes the relationship with left realism, it supports the focus on harm and the attempt to unearth the causes behind criminal behavior but is critical of its focus on policy, rather than wholesale social change. Left realism (and every other perspective) also lacks a sophisticated understanding of human motivation and subjectivity. Ultra-Realism tries to introduce psychoanalysis to help us understand criminal behavior. Essentially, what Ultra-Realists say is that there are three levels of reality: empirical (space of social experience), actual (space of deep-lying social processes) and real (space of fundamental forces and generative mechanisms). Ultra-Realists are critical of cultural criminology.

      Deviant leisure situates itself as a combination of Ultra-Realism, zemiology and green criminology. It is an exploration of how individual, social, and environmental harms are embedded within many accepted and normalized forms of leisure. **Consumer culture** is a common theme in the 21st century critical criminology to acknowledge mass consumer as a cause of crime. It is a background 'cause' – not direct, or working on its own, but a notable influence. Yet, there is a variation in how cultural criminology, Ultra-Realism and deviant leisure pose arguments in relation to consumer culture. HAYWARD was the first to talk about what he calls 'The Crime Consumerism Nexus' with its main themes: insatiability of desire, new forms of 'hyper strain', engagement with risk and instant gratification/impulsivity.

To **conclude**, we can see that critical criminology presents us with a varied array of perspectives and arguments – there is shared ground, but also disagreement. At its root, though, it encourages a radical departure from much 'mainstream' criminological thinking. The key question is what criminology should be. What purpose should it serve? Critical criminology builds on long intellectual traditions (e.g. Marxist and feminist thought). Within that there are long-running themes: crime's causes are rooted in capitalist exploitation, a focus on crimes of the powerful and that law and criminal justice are infused with power interests / dynamics. It continues to develop in the 21st century: it is a living tradition.

Lesson 7 (05/11/2019):

HILLYARD and **TOMBS** are the two figures of the zemiology. It started with a **'critical' critique of criminology**. In their opinion, crime has no ontological reality. The criminology perpetuates the myth of 'crime'. They usually treat crime as unproblematic and still believe that they can explain why people commit crime, not realizing that crime is a construct that we invented. If there is crime, crime consists of many petty events. It excludes many serious harms. Moreover, the criminal justice system creates wider social harm: it harms the families, the kids. Another point that they make is that crime control is ineffective. The whole discourse of crime also gives legitimacy to expansion of crime control. The articles that criminologists write are feeding the industry. Last but not least, crime serves to maintain power relations.

A new discipline is needed to consider social harms affecting people's welfare from cradle to the grave. The focus has to be on communities, rather than single individuals. This social harm approach, the so-called **zemiology**, should encompass physical harms, financial and economic harms, emotional and psychological harms. The last category is the category of cultural safety, which contains autonomy, development and access to cultural resources. Defining harm is a productive and positive process. Is harm better definable than crime? They are more likely to give examples rather than a clear explanation.

The **focus on harm** would (1) allow comparisons of different harms, including chronic v. discrete, (2) make allocation of responsibility possible, (3) allow greater consideration for appropriate policies, away from retribution and punishment, (4) shift focus to mass harm and more general policies, away from individualistic notions of crime, (5) challenge conservative power knowledge of criminology and role of state and (6) challenge overly-individualistic analysis of risks and shift focus on collective responses. The criminology focusses on crime, law and criminal justice which entails reproduction of 'class-based administration of criminal justice'. It also tends to reify object of study. This institutionalization of criminology has come at a high price in terms of social justice. There are many wrong and ineffective criminal policies. Lastly, this new harm-based discipline we call zemiology can barely be less successful.

MUNCIE wrote that it is a welcome reminder that many harmful activities are not included in state-definition of crime. Redefining of crime as harm also opens up the possibility of dealing with it through negotiation. Can and should criminology reconstitute itself as a political economy of harm? Criminology has broadened up its scope in last 30 years: should it go further? Lastly, he concludes that harm is not unitary or an uncontested concept. To define what is harmful, depends on perspective and normativity. Opting for harm is a political project.

GREENFIELD and **PAOLI** claim that we can use harm as a criterium for criminal policies. Harm is used as a setback to legitimate interests. It is a normative concept, as much as crime. But unlike crime, harm forces its users to clarify interests they care for. The main advantage of harm is that it is relational: harm to something. Which interest do you want to protect? The taxonomy distinguishes **four classes of bearers** (individual, private-sector entities, public-sector entities and social and physical environment) and **four interest dimensions** (functional integrity, material support, reputation and privacy and autonomy). These interest dimension represent 'capabilities' or pathways to certain standard of living or, by analogy, institutional mission. It acknowledges multi-dimensionality of human experience and essentiality of institutions and environment that shape that experience or stand on their own merit. When we do this, we acknowledge incommensurability of potentially affected interests. There is no scientific way to say what is more important to care about: individuals or the environment. We can only decide on a normative basis. If you have good data, you can establish the effectiveness of criminal policies. As scientists, as criminologists, we need to know if our criminal policies are effective, it they reach their goals.

GREENFIELD and PAOLI made a methodology, a **Harm Assessment Framework**. At first, we need to construct a business model/script of crime. We need to understand it before we can ask ourselves what the harms are. On a normative basis, we need to identify possible harms. Then we have to evaluate the severity (catastrophic, grave, serious, moderate or marginal) and the incidence (continuously, persistently, occasionally, seldom or rarely) of harm. The rating of the severity and the incidence concludes in a prioritizing of harms in a matrix. (very high, high, medium or low priority). By doing that, the matrix offers preliminary basis for addressing the incommensurability, using quantitative and qualitative data. The last step of the assessment is the establishment of the causality of harm. We assess remoteness of harm (direct v. remote) and dependence of harm on policy: a two-stage exercise.

WHITE is an Australian criminologist and an important author regarding **green criminology**. It is the study of environmental harms, law and regulations by criminologists. In other terms, it is a conservation, environmental or eco-global criminology. It is no single green criminology theory. They are political activists that want to change things: conceptual reflections, empirical analyses and practical interventions. There is a common attention for environment and the sensitivity for crimes of the powerful. This has an idea of ecological citizenship: human obligations to all living things. Their overarching policy aim is preventing ecological disaster and degradation but have also attention to links with social issues. WHITE uses the metaphor of felling of forests to explain the **different philosophies** in green criminology. The first perspective is an anthropocentric one: the interest of the humans counts more than the interest of animals or nature: human superiority. You can also look to it with a biocentric perspective: humans are one specie like others, and we need to protect all species. When we combine the two perspective, we get a third one, an ecocentric one: human responsibility (preservation of forests combined with long-term human needs).

When we **define crime or harm**, in green criminology, we make a distinction between primary (e.g. crimes of air and water pollution) and secondary crimes (e.g. state violence against oppositional groups). WHITE questions that you can only understand harm when it is recognized by the state. Many harmful activities derive from normal social practice. We can experience a frequent 'neutralization' of harm in public discourse. Foremost, green criminologists say harm is usually reconceptualized in expansive manner. In order to care about harm, we need to understand it. In green criminology, there are **three (normative) approaches** to harm and justice. The first one contains an environmental justice: distribution of environments among people. It is a more anthropocentric/ecocentric approach: humans' environmental rights are seen as an extension of human or social rights as to enhance quality of human life now and in future. The second one is the ecological justice: relationship of human beings to rest of natural world. The approach is more biocentric: quality of planetary environment and rights of other species are prioritized and to be preserved for own sake. Lastly, there is an approach of the species justice: animal rights are prioritized, harms seen in relation to them. For the empirical study, there are **four perspectives**: focal considerations (victims of harm), geographical considerations, locational considerations (built v. natural) and temporal considerations (short- v. long-term). Green criminologists often make a distinction between brown (urban life), green (wilderness) and white (sciences and technology) when they talk about the specific issues.

Harms are increasingly framed as violations of rights. The key question is how to weigh up harms and rights: which are more important (normativity). The methodology is still in infancy and riddled with problems. According to WHITE, green criminology should pursue **three main aims**: to investigate the nature of environmental harm, the nature of regulatory mechanisms and social control of these harms and the nature of the relationship between changes in or to specific environments and the criminalization process.

Lesson 8 (12/11/2019):

Criminal policy is the only government policy in which the state explicitly intends to harm the citizens: it is about punishment. Criminal law and policy deal in punishment, i.e., 'pain delivery' (CHRISTIE) or at least something burdensome (DUFF & HOSKINS). Therefore, there has been a lot of discussion on the **justification** of it all. There have been two broad types of answers: (1) instrumental and (2) moralist. There are **instrumentalist/consequentialist answers** to question portray criminal law as technique to achieve worthwhile ends. From there it follows that criminal law is to be used as long as it is effective. Since BECCARIA there was a focus on deterrence (general and specific) resulting from certainty, severity and celerity of punishment. **Non-instrumentalist answers** (i.e., legal moralism and retributive justice) portray criminal law as an intrinsically appropriate response to certain kinds of wrongful conduct. The answer is about what is rightful. These approaches have been implemented in theories since BECCARIA.

BECCARIA was a consequentialist, but this approach has been most clearly stated by a British philosopher MILL. The **MILL's Harm Principle** was that "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others". We can criminalize something when this person commits something harmful to other people. There are scholars that still refer to this principle, although today hardly anybody would subscribe this principle with no restrictions. Most contemporary scholars quality this principle with requirements of justice (punish if this person has committed something bad) or by adding offence principle (prohibit something that offends the majority of the people). An example of the offence principle is having sex on the bus. It's not something harmful, but most people would be bothered and offended. This form of **consequentialism** is considered to be the first approach in legal theory.

The second approach is **legal moralism** with two variants. The extreme moralists are considered to be the positive moralists. They say that the only function of criminal law is to achieve retributive justice by punishing "all and only those who are morally culpable in the doing of some morally wrongful action". In that view we have to punish all the people who have done something wrong. The negative moralists say that crime is a public wrong that properly concerns the public, i.e., the polity as a whole and who commits it can be punished. Importantly, DUFF says that private wrongs are excluded (only public wrongs), but that those public wrongs only are necessary, but not sufficient reason to criminalize.

According to **consequentialists**, you can have different **aims** to different phases **of criminal policy**. You can try to reduce crime (and their harms) through criminalization (specific and general deterrence), through policing (via apprehension: 'sentinel' function (the fact that the police are just around abstains people from committing crime), offenders' incapacitation and victims' assistance), through punishment, through crime prevention and governance of security and through victims' assistance and restorative justice.

The **moralist aims of criminal policy** had a revival since the 1970s with two variants. The positive retributivism says that the state should punish those found guilty of criminal offences to the extent that they deserve, because they deserve it ('just desert' and expression of victims' and society's feeling of revenge via state). The negative retributivism says that punishment should be imposed only on those who deserve it, and only in proportion with their desert. Therefore, the sentence should be proportional to the harm caused by the offender. It is a constraining principle also for consequentialist approaches: the punishment should be proportional to the seriousness of the offence, but also to the offender's culpability. In general, a mix of values and approaches is necessary in practice.

How far are these aims actually being achieved? To what extent is **deterrence** achieved? There have been empirical studies since 1960s, but with many methodological problems. Even though, there is much more empirical support for the deterrent effect of changes in the certainty than changes in the severity of punishment. The research also shows that the informal sanction costs (e.g. 'fear of arrest') are most important. People are more afraid of what their family and friends are going to think about it rather than the effective punishment itself. There is limited evidence of the deterrent effect of **imprisonment** in six studies (e.g. imprisonment to enforce fine payment and conditions of probation and 'three strikes' laws). There is little to almost no evidence that imprisonment can really deter people from committing crime. On the contrary, there is a lot of evidence that points to the criminogenic effect of the prison experience on subsequent offending: experience of prison not as bad as expected, prison as a school of crime and social and economic stigmatization of convicts.

There is more evidence about the **deterrent effect of policing**. There is a clear evidence that police officers on the street have a deterrent effect just by being there ('sentinel' function). Moreover, there is a literature showing the crime prevention effectiveness of different policing strategies (e.g., hot-spot and problem-oriented policing). There is a focus on places were a lot of crime occurs.

To what extend is **incapacitation** achieved? The effect of imprisonment is found to be modest in most studies. The effect declines with the growing size of prison population. High risk offenders are already incapacitated: new admissions will tend to be lower-rate offenders. The offender's incapacitation in prison is also costly. It necessarily requires higher imprisonment rates and attendant social costs. There is also limited evidence for policing incapacitation. It only works as long as you keep somebody into prison. Once you put this person outside, he or she will start committing crime. To conclude, there is some evidence that some of these aims can be achieved, but there are also big problems, especially within imprisonment.

To what extent is **retributive justice** achieved? You are punishing people because they deserve it, but you don't want to punish an innocent person. A study from JEHLE & WADE focused on the way that western countries deal with whether or not the traditional principles of criminal law and criminal justice are applied in practice. Their major conclusion is that the increasing number of criminal proceedings have grown so much, there are fewer and fewer regular trials. Most countries have increased the discretion of both the police and the prosecution services so that fewer cases reach court. Prosecutors become 'judges before the judges' or even replace the judge in all but the most serious cases. Besides that, there is almost no country in Europe that follows the principle of legality without any exception. Almost nowhere are all criminal offenders prosecuted in order to be judged by a court.

JEHLE & WADE show that there are several **strategies to cope with the criminal justice systems' workload**. The first one is to increase police discretion. Lots of cases are dropped just by the police, because the police cannot find the offender or because the police think that the case is not important. There is also an increase of prosecutorial discretion. Even the prosecution services often decide that many cases are dropped because there is no public interest, the case is not important enough, or the prosecution can oppose a conditional disposal (i.e. dropping the case if the offender follows a drug program). What we also see, is that the courts increasingly rely on prosecutorial decisions: penal orders (German Strafbefehl and French ordonnance or composition) or accelerated proceedings. Courts often merely 'rubber stamp' prosecution services' proposal. In most cases, the judge does not have enough resources to check the case and to make a decision and says that the case is closed. The last strategy is to decriminalize. It is the most defensible strategy, but seldom used. JEHLE & WADE illustrate the increasing power and discretion for prosecution services in all European countries by a table.

JEHLE & WADE show that the full criminal trial has become exceptional rather than the rule in France, Germany and Sweden: **few court trials**. It only slightly outweighs the use of other solutions in Poland and the Netherlands. Therefore, we are in a situation in which many convictions do not result from court scrutiny.

     In conclusion, the changes represent fundamental changes for the systems of criminal justice. There is a move away from the ideal of retributive justice except for the most serious cases. We are also deviating from the original aims. Pre-trial institutions are given powers to administer punishment (of sorts) or to determine the procedures and treatment the suspected offenders face. JEHLE & WADE are not critical criminologists. They say that these changes are necessary to deal with overload, but they ask if these changes are also desirable and normatively justified. Are we moving away from our ideas? There is a variety of potential paths for offenders depending on arbitrary reasons and without public scrutiny. There is a lower protection of the suspect's rights and lesser standards of evidence scrutiny. There is also a reduced attention for individuals' characteristics. In 2018, WADE even speaks of techniques of neutralization to deny deviations from the principles of retributive justice.

Can punishment be justified? We can see that there are different positions and the discussion has focused on imprisonment. There are abolitionists that say that imprisonment cannot be justified under any circumstance, even in principle. There are also consequentialists that say that imprisonment falls short of fulfilling its aims, i.e., reducing crime. Even some more legal moralists have doubts: conservatism.

PAOLI's approach is that of the **'side-constrained' consequentialism**: sanctions should achieve other goals than just to punish. Through criminal law and other means of criminal policy, one should try to reduce harm. Harm is central to crime, criminal policy and governance of security. The idea of harm reduction is at least complicit in many branches of criminology. Often it is not fully recognized. Hence punishment is allowed - and indeed necessary - but imprisonment is justified only to the extent that it helps reducing overall harm of crime and criminal policies. If the negative impact is bigger than the benefits that we achieve through the criminal policy, it's better to change the policy. Even harm reduction has to be constrained by the requirements of justice. You can only apply a criminal sanction if the person that you are sanctioning has really committed something wrong. In that philosophy, harm assessment can provide evidence to improve policy.

In early **legal systems**, tort claims and/or public prosecutions aimed to restore harm done to legal interests of individuals and community. Sanctions primarily aimed at restoration of harm. No retributivist sanction was foreseen: sanctions were meant to reduce the harm suffered by the victims. Only with Normans the focus shifted from harm to individuals' and community interests to harm to the ruler: crime as disobedience to the king, in England "breach of King's Peace". Gradually, criminal and tort law split, victims were displaced from the criminal process and criminal sanctions lost restorative aim. If we look at the historic books, we can see that the Early Modern thinkers made a clear link with harm (e.g. BECCARIA, SMITH and MILL). If you look at criminal law, except for extreme legal moralists, contemporary legal theorists recognize the relevance of harm.

     In **criminology**, there is a growing interest in harm. Mainstream criminologists only endorse link implicitly through 'mala in se'. If you look at the different criminal policies, you see that in most branches harm plays some rules. In **criminalization**, harm prevention has long served as a main aim of criminal law in the US and in Europe. European penal codes are, for example, organized in sections per harm to individuals' and collective interests. Despite shift to retributivism, recent trends have expanded relevance to harm, but no conceptualization or

assessment of harm. Crime control is mostly presented as sufficient justification in itself, but few countries/agencies explicitly posit harm reduction as aim. For both scholars and legal texts, penal sanctions must be proportional to the seriousness of offence. For other scholars (all) sentences should restore harm. Since the 1970s there was a growing concern for **victims** and progressive re-inclusion of victims in criminal justice process via many initiatives. Harm is central to a concept of victim of crime and related assistance programs. Restorative justice has also boomed and also focuses on harm restoration, but neither the victimology nor the restorative justice field has clarified "harm". There is also a **crime prevention** boom, but in most programs, there is no explicit reference to harm, even though harm is central to security. BENTHAM and SMITH talk about a benefit-cost analyses which entails an own interest: only if it is in their own interest, people care about crime. Again, the link between security, risk and harm is not fully recognized in criminology.

To sum up, there is an uneven recognition of harm in criminal policy. Very little empirical studies have been carried out. Most criminal policies can be reframed in terms of harm reduction though. **GREENFIELD & PAOLI's harm assessment** contains potential contributions to policy. Harm assessment should be the first step to a real policy evaluation: baseline estimation. Then, one has to compare the current situation with the cost of the current policy and through figuring out what harms and costs would change through the policy. If the policy is useful, we can compare: policy evaluation. Harm assessment should be an important task of criminology and empirical assessment of harm can inform normative deliberations in both areas and provide evidence for evaluation of related interventions. There is no scientific way to say what policy is better, because of this normativity. The pros and cons can be listed though. This harm assessment is a way of advancing justice understood as 'nyaya' (realizations), not 'niti' (institutions and rules). What is concretely achieved with the policy? In the end, you have to respect the procedures ('niti'), but this is not enough. The concrete outcome is also important ('nyaya'). We need to imply the best policy, the policy that reduces the most harm. It also advances (human) security, which is intertwined with justice as 'nyaya'. Justice and security become fuse and not opposable. It provides an adequate answer to what collective good is and what inquiry we want to promote.

In conclusion, there are two main approaches to justify criminal law and policy and punishment: consequentialism and legal moralism. Depending on the approach, there are different aims for a criminal policy. Limited proof has been noted for deterrence of punishment, more for policing. Incapacitation has some marginally decreasing benefits and retributive justice has frequently not been achieved. Harm reduction should be recognized as key aim (but 'side–constrained' consequentialism). The harm assessment is a tool to see if the aim is achieved and to select the most appropriate interventions. It is also a way of advancing justice understood as 'nyaya' (realizations) and security.

Lesson 9 (18/11/2019):

There are **major differences** in the crime rates (even homicide rates), the rate of police officers, the role and powers of prosecutor's offices, the type of criminal sanctions imposed and the imprisonment rate and percent of pre-trial, female and foreign detainees. Why do these differences exist? The UN Homicide Monitor shows that the rate per 100.000 inhabitants of Belgium is quite high (2 v. 0,5 in Germany, 0,6 in The Netherlands and 1,3 in France). The rates in Central and South America is much higher though (26,7 in Mexico, 30,3 in Brazil and even 51,1 in Venezuela). Comparing the number of police officers with the rest of Europe, Belgium has a lot more police officers than for example The Netherlands (419,2 per 100.000 inhabitants v. 236,8). We see a big difference in cases brought before court, in sanctions and in imprisonment. Belgium, for example, has a very high percent of foreign detainees in prisons (44,2%). Interestingly, the US' rate is exceptionally high (655 per 100.000 inhabitants). Despite the feminist emancipation theories, the percent of female detainees is quite low.

If you do a comparative analysis, in general the Eastern European tend to have the highest imprisonment rate and the Scandinavian the lowest. The UK and Spain have the highest rates in Western Europe. The continental European countries are in the middle, but The Netherlands has the lowest rate. The trends have also been radically different. Belgium's rate has been quite flat, ca. 80-100 per 100.000 since 1980s. The Netherlands has had interesting trends, without even changing criminal policies. The main point that you should bring home is that there are main differences in the outcomes of the policies. The **comparison** of criminal policy resources, outcomes and trends shows radically different outcomes, even across Europe, radically different imprisonment rates (even across Europe) and trends in imprisonment rates (recent declines in The Netherlands, Spain and Germany, stability in Scandinavia and increase in the UK and at lower rates also in France and Belgium). To conclude, it is not true that all western societies are becoming more punitive.

Firstly, we need to talk about the **phases and actors of criminal policy**. A criminal policy starts with criminalization (policymakers), continues with crime control (policymakers, police and prosecution services), adjudication (prosecution services and courts) and sentencing and punishment (policymakers, courts and prisons). The last three phases are the penal policies stricto sensu. In the crime prevention are actors (whole public sector, incl. criminal justice system, citizens, businesses and NGOs) that help to reduce crime. Besides that, victims' assistance and restorative justice (police, victims and mediation services) are also important.

TONRY focuses on the **penal policy**, rather than the criminal policy in a broad sense. He wants to apply the same approach that is often applied to punitiveness or penal policies. Criminal behavior is often described as a function of risk and protective factors. These factors are probabilistic and dynamic. For a long time, criminal policies were considered reactions to crime. Once you start analyzing these policies, you see different theories. The shift was also promoted by the rise of critical criminology and the labeling theory. Crime was seen as a constructive process.

TONRY also says that most of the things invoked to explain increased punitiveness are **nonfactors**: e.g. increased crime rates, harsher public attitudes and ethnic tension. These nonfactors can be thought of in two ways: background conditions or necessary but not sufficient conditions, risk factors that lack independent explanatory power. The data, for example, shows that the imprisonment rate is unrelated with victimization rates and is inversely related with reported crime (e.g. Finland).

Through comparative analysis, Tonry listed five national features: general political culture, constitutional structure, mass media characteristics, Anglo-Saxon culture and simplistic conceptions of democracy.

Firstly, the **general political culture**: countries that tend to have a conflict system (e.g. the UK and the US) have a higher imprisonment rate. The countries with consensus political systems (e.g. most continental European countries) have a lower imprisonment rate. The research also shows that countries with consensus political systems tend to have greater gender equality, greener environmental policies and more humane criminal justice policies. We can see this in Lijphart's model and in a more recent analysis.

The **constitutional structure** impacts upon the degree of politicization of criminal justice, which depends on political or meritocratic selection of prosecutors and judges and upon the degree of involvement of elected politicians in decision making about individual cases. The obsolescence of the UK and the US constitutions differentiates them from other western countries: in the US prosecutors and judges are frequently elected and appointed (what means that they have to follow the moral panic to be elected again) and in the UK, there is no individual bill of rights and no separation of powers. It is no shock that these countries have the harshest and more populistic sentences.

Mass media characteristics are also a national feature. Despite cross-country growth of sensationalism, large differences persist in media reporting about crime. The media are particularly sensationalistic where newspapers are sold at newsstands (e.g. in the UK). The mass media style and politicians' reactions to them impact on these penal policies.

Tonry notes that countries with the **Anglo-Saxon culture** have higher crime rates. The English-speaking countries are particularly punitive. It is unclear why. Constitutional structure or residual influence of historical British penal culture on former colonies? More capitalism and less social democracy? Protestant religion with Calvinist overtones (as in the Netherlands)?

He also discusses the **populist conceptions of democracy**. It is unclear what 'populist punitiveness' really means, but countries differ in the relative weight to be given in policy making to public opinion v. professional knowledge, the insulation of decisions on individual cases from public emotions (but general policies should reflect public feelings to some extent) and in the protection of individual rights for example through international law.

Income inequality, welfare, state legitimacy and social trust are, Tonry says, emphasized by **statistical analyses**. The imprisonment rate is (1) inversely correlated with welfare indicators, (2) inversely correlated with institutional trust and legitimacy and social capital, (3) negatively correlated with normative legitimacy and (4) positively correlated with the fear of crime and punitiveness. Countries that have low levels of income inequality have a more cohesive society.

According to Tonry, there are four **protective factors**. First of all, consensus political cultures can be protective. In none of these cultures has crime control become a recurring or defining partisan political issue, and in none has a felt need emerges for parties to address perceived popular anger by means of wholesale adoption of expressive tough-on-crime policies. A second protective factor are nonpartisan judges and prosecutors. Professional norms of independence and impartiality are strong. By contrast, the methods by which American judges and prosecutors are selected carry large risk of politicization. Francophone cultures are considered to be a third protective factor. It is striking that the French-speaking areas are all places characterized by comparatively mild penal policies. Lastly, expert-informed policy processes can be protective.

Lappi-Seppälä adds high levels of social trust and political legitimacy and a strong welfare state as a protective factor.

Lesson 10 (26/11/2019):

Have **crimes in Belgium** gone up or down? There has been a general decline, but in Belgium the decline in crime rates started only in 2012 – later than other western countries. Belgium knew a stability up to 2012, but since then there has been a 16,4% decrease. **Property crimes** dominate the picture, with theft and extorsion as big categories. Categories as migrant law violations and computer crime have grown significantly since 2000. If you look more closely, you see that property crimes have decreased even more than the overall crime rate: 36% since 2000. In the police statistics, you can also find specific data. You can see, for example, that there has been a huge decrease in car thefts and a late decrease in burglaries (started in 2013). There has, although, been a surprising increase in **violent crime**, primarily in assault. If you look at the general statistics, there has also been a 74,8% increase of homicide. The Belgian statistics don't make a difference between attempted homicide and completed homicide though: there has been a decrease in completed homicides and murders. This reminds us that the devil is in the details. Even with the split, Belgium has the highest homicide rate in Western Europe. It is unclear why: unlike other countries there is no homicide monitor in Belgium.

Researchers have tried to answer the question **why** crime has decreased in Belgium later than other countries and why violent crime has increased. VAN DIJK shows that the crime drop occurred later than in other countries. He has developed a responsive security thesis to explain this drop. As the routine activity theory also states, opportunities for thieves are created by more welfare. After that, the crime rates increase, but people protect themselves out of a fear for crime. That results in a decrease of the opportunity, what results in lower crime rates. The late decline in property crime might be due to late adoption of prevention measures by the Belgian public. This decline in property crime has prevented the initiation of many criminal careers and therefore has an impact on other forms of crime. The increase in recording of assaults and attempted homicides might be due to changing sensitivities in public and police. Other comparative data sources, for example the European Sourcebook and the ICVS, show that there is a high level of reported crimes in Belgium. In the latest ICVS, it shows that Belgium occupies a middle position qua victimization. The high homicide rate is worrisome though.

The prosecution is waived in 72% of all cases. For 65% this happens for technical reasons, but there is also an opportunity waiver. There has been a decrease in cases dealt by prosecutors and prosecutors only refer 5% of the cases to courts. If you look at other **key data on penal policies**, you see that fines are the most frequent sanction (87%). Most prison sentences (82%) are below one year. However, the use of pre-tail confinement and long prison sentences have become more frequent: the average of the length of sentences has grown. There has also been a long-term increase in prison population, but since 2014 we have been seeing a decrease. The increase of prisoners serving long sentences is due to two factors: longer sentences imposed and early release for long-term prisoners has been tightening. The decrease of prisoners serving short sentences can be explained by non-execution, electronic monitoring and early release. There has also been a sharp increase of remand detainees: one of the highest rates in Western Europe. Overall, there has been a parallel growth of alternative to custody and early release, but only for short-term prisoners. SNACKEN speaks about **bifurcation policy**, which uses imprisonment as a measure of last resort and enlarges application of noncustodial sanctions, while imposing more remand custody and longer prison sentences for some forms of drug, sexual and violent crime. The criminal policy has become harsher, more severe for a limited number of people (serious offences). On the other hand, criminal policies have become milder for most offenders/convicts.

Belgium has known many **radical reforms** since the 1990s. It was driven by two shocks: the 'Black Sunday' in 1991 (electoral victory of right-wing party Vlaams Blok) and the Dutroux case in 1996. After Black Sunday, the Pentecost plans (security and prevention contracts with cities) were the beginning of a more developed integral security policy. The priorities of this security policy have been defined in key documents. The evidence for setting priorities are not always clear, but it is a good idea to have a master document in which national priorities are set through a process of negotiation with different experts and stakeholders. Due to Belgium's complex constitutional structure, implementation and coordination are difficult. In 2016, a new framework paper on integral safety has been constructed where ten clusters of security problems are prioritized. An example is the question of reducing nuisance and the impact of transmigrants at Brussels North. After the Dutroux case, the Octopus agreement in 1998 led to a reform of the police in 1998/2001. Judges and prosecutors also deal with proceedings that have been started. Several acts were passed that reinforced the position of victims in the criminal justice process, their rights and victim assistance.

However, there were **no major reforms of penal policy**. The white paper proposed penal reform a few months before the Dutroux case. It was not implemented though. The liberal reform of prison law has been debated since 1996, but only adopted only in 2006. According to experts, this law is only partially implemented. There also have been other acts that were passed in 2006 that partially created new systems of parole and tribunals for execution of sentences and reformed sentencing process. This has also been poorly implemented. The overcrowding remains a big problem. The current Minister of Justice Koen Geens has proposed a justice plan (2014) to reform the different branches of the justice system. He also proposed a masterplan of prisons (2016). Several reforms were introduced by several acts. The code of Criminal Law has been rewritten and approved by the Council of Ministers. The procedure, decided by Koen Geens, was very good, but once their proposal was sent to the Council of Ministers, some chances were made. It was not approved due to government fall though.

To explain the evolution of Belgian criminal policy, SNACKEN considers it to be a complex interaction of different factors. She considers the working of the criminal justice system a big determent of the outcome. It was 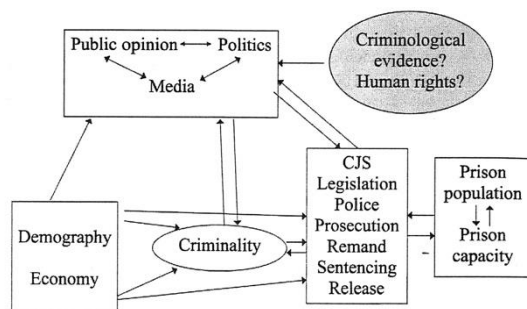not only to determine the **determinants of Belgian criminal policy**, but also to criticize GARLAND's Culture of Control. One of the key points of GARLAND is the rise and fall of rehabilitation. SNACKEN says that Belgium never experienced that. The rise and fall were more typical for the US or the UK. She also says that there are some similarities in changing demographic and economic characteristics and resulting feeling of insecurity and intolerance, but it had a scarce impact on concrete policies. There are further differences in (1) an importance and credibility of expert advice in media and politics, (2) a continued influence of interactionist and radical criminology, (3) a balanced approach between victims' and offenders' interests and (4) an influence of restorative justice and emphasis on human rights. There are thus similarities to but also some differences from political, popular and professional cultures between Belgium and the US or the UK. These differences may explain why thus far more diverse policy options have been possible. The main question for the future will be how politicians will cope with competition between increased populist pressures and more moderate, balanced, humane and expert-based proposals for change. Other factors worth mentioning are the state forms in Belgium (the sixth state reform in 2014 shifted competencies also in criminal policy to regions) and budgetary pressure.

FIG. 2.—Mechanism of changing prison populations

Lesson 11 (03/12/2019):

VAN SWAANINGEN talks about the criminal policies in The Netherlands. He starts with the question: 'what do we mean with **punitiveness**?'. Perhaps the criminal policies are decided by an elite that are more liberalistic, but the people are more punitive. It is an unclear concept, defined in different ways. Punitiveness of penal policies involves high imprisonment rates and prison as the obvious reaction to crime for example. For the article, the standpoint of VAN SWAANINGEN does not become very clear, but reflections on punitiveness are important.

The Netherlands was known for its mild penal climate till the mid 1980s. It was considered a model of penal liberalism. There was a focus on rehabilitation and prisoners' rights and low imprisonment rates. From the mid 80s onwards until 2005 there was a steady growth of the imprisonment rate though. According to some authors, including VAN SWAANINGEN, there was a growing punitiveness. Was there a road to dystopia? It went from the lowest imprisonment rate to the top three of highest rates in Western Europe. This went with an enormous expansion of non-custodial sentences, intrusive 'preventative' measures and incapacitation of 'problem groups'. Other indications of growing punitiveness were austere, cheaply built cells, violations of penitentiary principles and penal crises. There also was a growing emphasis on protection of society that led to expansion of security and prevention policy. Suddenly there was a big decrease in Dutch prison population after 2005. Was the analysis about the road to dystopia wrong? Many prisons are being closed and one was rented out to Belgium. The decline happened despite no obvious changes in socio-cultural fabric, politics or criminal policy. It also was accompanied by a strong decline in crime rates.

VAN SWAANINGEN discusses several factors that explain the pre-1973 decline and stability (D/S), the 1973-2005 growth (G) and the post-2005 decline (D). First of all, penal experts played a key role internationally as a political avant garde for reductionist agendas. The liberal elites could influence the policies as they wanted. CHRISTIE noted that this liberal attitude was a form of tolerance from above. This was not necessarily shared by the population. Today, we know more critical voices. The **role of professional elites** was a key factor for the pre-1973 decline and stability (D/S). Nowadays, you have experts that have a much more limited expertise that give advice on what works, on best practices. They are more risk-analysts, more managers. These experts no longer comment on punitiveness. These changes in **penal expertise** have been a key factor for the growth (G).

Another factor is the **political will**. In the Netherlands, politicians experienced WW II and were ashamed of appalling prison conditions in a civilized society. In other countries, the same voice was heard (e.g. Finland and Canada). After 1975, this political will to keep the prison population low disappeared. Because of changes in the media, politicians became much more open to the requests of the public. Therefore, since the 1990s, populist policies increased with an increasing focus on protection of society. The Ministry of Justice has changed its name to the Ministry of Security and Justice. It was a key factor for D/S, but also for G.

It is unclear whether the strength of the relation between trends in **crime rates** and trends in imprisonment rates is large. It is unlikely that the crime growth led to the imprisonment rates' growth, if at all only with a huge time lag. But does VAN SWAANINGEN pay enough attention to the seriousness of crime? There is a decline in crime rates since the 1990s, but crime also declined in countries with no decline in imprisonment rates.

The **fear of crime and the media** have been important for all the three phases. In the Netherlands (as in Scandinavia) newspapers sold via subscription and hardly any tabloids until 1980s. Hence there was no need for sensationalism. Since then there was a mediatization of crime and safety with the emergence of commercial television (e.g. 'real crime' programs). Safety and the fear of crime became key electoral themes. After Fortuyn's 'revolution' of 2001 othering and political incorrectness became 'normal'. Fortuyn made clear the people of Muslim religions were not welcome in the Netherlands. These statements have become accepted and more and more people are following this.

Despite changes in the media world, there was a decrease in levels of fear and crime since 1999. The media also give more attention to failures of penal policies (e.g. miscarriages of justice, wrong planning of prison capacity, worsening conditions of detention in prison, etc.). Due to prominence economic crisis and austerity measures, crime plays a less prominent role in the media discourse and electoral campaigns.

VAN SWAANINGEN also discusses **factors/trends internal to the criminal justice system** that relate to the growth and the post-2005 decline of the imprisonment rates. There were more punitive trends/factors (e.g. mentally disturbed offenders awaiting a place in a TBS clinic in prison) and these trends reflect failure to solve social problems by social policy. However, VAN SWAANINGEN also notes less punitive trends/factors that have become clear since 2005 (e.g. fewer custodial sanctions for very minor offences since 2000). The trends are correct, but it is a bit confusing whether these trends are correlated with imprisonments rate. Are these trends determinants or outcomes?

Lastly, there have been some **legislative changes**. Earlier changes favored growth in the prison population. There have been no radical changes since 2000, but some promoted decline. An introduction of prosecutorial settlement, Fokkens regulation (that led to a decrease of mentally ill prisoners who were sent sooner to TBS clinics) and the general pardon of 27.000 asylum seekers in 2007 (many of them were in remand centers) may have influenced the decline.

VAN SWAANINGEN asks whether a **punitive turn** has reversed. It is clear that there has been a significant decline of prison population. However, there are other trends more in the direction of more punitiveness. Austerity measures lead to a loss of quality in prison life. If you look at the total number of sanctions, you see an increase. Some very punitive measures (e.g. super-max) were introduced. 28% of the prisoners are foreign nationals, but a much larger share of the prison population is first- or second-generation migrants. Moreover, intrusive measures have been adopted to prevent crime (e.g. hot-spot approach). These punitive trends exist, but nonetheless the Dutch policy is still one of the most liberal ones.

In **the United Kingdom** we see a completely different trend, despite the not so different social changes. Despite declining crime, we see a punitive turn from early 1990s on. Law and order have increasingly become a political issue since 1970s. According to NEWBURN, the punitive turn is linked to cultural and economic conditions of neoliberalism. There was a sharp decline in crime rates since early 1990s until 2014, but only recently there has been a small increase, especially for violent crime. The prison population started growing in the period after WW II, but then there was a slight decline due to measures introduced by the conservative government. Just for England and Wales the imprisonment rate rose from 90 in 1993 to 153 in 2010-2012 and a decline to 140 in 2018. Similar rates and trends can be seen in Scotland, but there are much lower rates in North-Ireland. It is interesting to see that the increase was no increase in number of offenders caught or convicted and no increase in seriousness of offences before courts. The main cause is the increase in severity of sentences: less leniency with first offenders

and strong increases in time served. As you can see in statistics, custody has overcome fines that used to be the most frequent sanction.

To explain the sharp penal policies, NEWBURN looks at the **changes in criminal policy** since 1993. The big change happened in the beginning of the 90s. Until then, the policies were more left-wing. The appointment of Howard to Home Secretary in 1993 signed shift to a more populist and punitive penal policy. A series of punitive laws were introduced, next to a massive expansion of prevention and security policy. During the long period of the Labour cabinets, penal policies became more punitive with a bigger expansion of the prison population. After Blair and the changes of government, there have become acts increasing minimum sentence length for some offences and plan to build mega-prisons but also closure of nine prisons, and new emphasis on rehabilitation. Since the Brexit, no energy is left to discuss a change policy.

For NEWBURN, the United Kingdom is hybrid between US and European policies. He emphasizes socio-economic context (**neo-liberalism**) as key determinant of penal policies. The UK is the most neoliberal country in Europe, close to other Anglo-Saxon countries. In the United Kingdom, you also have high levels of inequality that rivals the United States. Despite neoliberal reforms, the UK continues to spend higher proportion on welfare than the US. Some cultural and political circumstances also distinguish the UK from the US (e.g., relative absence of politicized victim movement, relative insulation of sentencers and different racial policies). These are important determinants to explain the differences between the two. The main factor that NEWBURN discusses about neo-liberalism is unclear.

Scandinavian countries are the countries in Europe (together with the Netherlands) that have the lowest imprisonments rates. Still, there are different cases within Scandinavia. In Denmark, Iceland, Norway and Sweden, stability in imprisonment rates have been there since 1950s. In Finland there was a huge decrease from 200 to 51 per 100.000, despite increasing crime rates. In general, low imprisonment rates are associated with consensus and corporatist political systems, high spending on welfare, low inequality, trust in government and society. Additionally, the criminal justice system is run by civil servants and besides that experts play a key role in penal policymaking. If you look at the imprisonment rate in Finland (1880-2003), you see a few peaks that can be explained throughout history (e.g. when Finland was a part of the Soviet-Union). The crime rates and the imprisonment rates are going in a totally different direction. The crime rates have been going up, but the imprisonment rates have been declining. From the work of LAPPI-SEPPÄLÄ we can see some explanations of this **Finnish case**. Finland has a different history than the rest of Scandinavia, but after WW II, it wanted to emulate their mild penal policies. The key explanatory factors for the Finnish imprisonment rate decline are (1) the key role of experts ("humane neoclassicism": still punish offenders, but in a humane way), (2) economic growth, increase in welfare spending, and decrease in income inequality, (3) characteristics of political system, society and culture and (4) media characteristics. Since 1980s, the aim of penal policy has been minimization of costs and harmful effects of crime and crime control and fair distribution of costs. We will see in the coming years if the rise of right-wing parties might lead to the toughening of Scandinavian criminal policies.

In conclusion, the Netherlands has known an unexpected phenomenal increase in its prison population between 1973 and 2005. Since 2005 the number has been declining, though. VAN SWAANINGEN discusses factors explaining the pre-1973 decline and stability (D/S), the 1973-2005 growth (G) and the post-2005 decline (D). These factors are the roles of penal experts and type of penal experts (D/S + G), the political will (D/S + G), the fear of crime and the role of the media (D/S + G + D), the crime rates (G? + D), the factors internal to the criminal justice system (G + D) and legislative changes (exposition of factors, not clear or systematic (G + D)). Despite the decrease, other forms of punitiveness persist. The definition is unclear though.

Lesson 12 (10/12/2019):

As you probably know, **the United States** penal policies stand out vis-à-vis those of all other western countries. It is the only western country that retains the death penalty and has the world's highest imprisonment rate. Over 2.1 million people are imprisoned and 2.3 million are confined. Just consider that the US has 5% of the world population, but 25% of its prisoners. The US also refuses to acknowledge human rights conventions. The question is why.

In **historical perspective**, you see that it was not always like that. At some point, Finland had a bigger imprisonment rate than the US. The incarceration rate in the US started rising in the 70s. ZIMRING says that the second phase (significant growth) can be reduced to three subphases: 1973-1980s (general increase in commitment of marginal felons to prisons), 1985-1992 (emphasis shifted to drugs) and 1992-2007 (new politics of punishment: Megan Laws, 'three strikes and you are out' laws, truth in sentencing laws). The third phase is a slow decline (since 2010). The correctional population is even larger. Almost 7.3 million people are subject to some form of supervision. The costs are estimated at 80 billion dollar per year or 35.000 dollar per inmate. Many states pay more for prisons than for higher education. Federal prisons count only for a small percent of the detainers. Most people are detained in state prisons (1,3 million), but there are also people in local jails (612.000), federal prisons and jails (221.000) et cetera. Incarceration is just one piece of the much larger system of correctional control. Just think about probation (3.6 million) and parole (840.000). The **drug laws** have had a big impact on the federal imprisonment rate. Drug offenders are nearly half of all federal prisoners, primarily because of the mandatory minimum sentences for drug offences. Since 1980 the federal prison population has soared spectacularly. At the state and county level drug offences are counted less. Most people have committed property or violent crimes. The 'three strikes' laws concern not only drugs but also many ordinary crimes. Recidivist petty thieves have been jailed for life.

There are big differences among US states. Some states have rates even exceeding 1.000 prisoners per 100.000 people. In about nine out of ten cases convictions were based on guilty pleas. People are sometimes convicted to a long time in prison, because they think they can avoid longer sentences if they plead guilty. More than 10 million times people go to jail, mostly waiting for trail. Many are detained because they cannot pay bail or traffic fines. Community supervision (e.g. probation or parole) often leads to more time in prison, because of 'technical violations'. 63.000 youth are held in confinement, many not even for a crime. Too many are there for a "most serious crime" that is not even a crime. Nearly 1 in 10 youth are locked in an adult jail or prison. Almost 85.000 people are confined for immigration offences (mostly illegal entry). Moreover, there is a strong racial bias. Black Americans (13% of the residents) make up 40% of the incarcerated population.

There is **good news** though. Recently, there has been a decline prompted by changing views and legal and 'soft' changes especially at state level. These changes were sometimes made by conservative states, for example Texas. The states could no longer afford huge prisons, which lead to a reduced prison population. In California the supreme court's ruling forced it to reduce prison population (320% overcrowding rate). Rather, it has sent lots of non-serious offenders to county jails instead of state prisons (a policy called 'realignment'). Attorney-general Eric Holder told federal prosecutors to avoid seeking the maximum penalties for non-violent drug offenders. This reform caused a modest reduction in the number of federal prisoners (who are about 10% of the total). In a 2018 survey, 59% of the respondents were willing to vote for a candidate who supports reducing the prison population. There is a sort of **bipartisan consensus** that the system does not work but no full consensus on how. In December 2018, the First Step

Act was passed by wide margins that abolished disparities between crack and cocaine. It also made 'compassionate release' possible for severely ill inmates. A risk and needs assessment tool was introduced to prepare and support the release for each inmate. It is unclear whether this act is window-dressing or not. The reform process at state level has also been furthered. The New Jersey reform in 2017, for example, ended cash bail.

The **next step** would be to change laws concerning violent offenders. Changes so far concern mainly "non-non-nons" — people convicted of non-violent, non-serious, non-sexual offenses. If we are serious about ending mass incarceration, we will have to change our responses to more serious and violent crime. For violent offenses especially, these labels can distort perceptions of individual "violent offenders" and exaggerate the scale of dangerous violent crime. "Violent" offenders are not that violent. In the Unites States, everyone involved in robbery ending with murder can be convicted for murder. Most people are convicted with plea bargain. On top of that, recidivism is much lower among violent offenders than other type of offenders. In the US most murders occur among people that know each other (friends or family). Once this trigger is away, many murderers don't start a criminal career. People convicted of homicide are the least likely to be re-arrested. Those convicted of rape or sexual assault have re-arrest rates roughly 30-50% lower than people convicted of larceny or motor vehicle theft.

Why have the US' imprisonment rates skyrocketed since the 1970s? It is clear that crime is not the answer. There has been a sharp decline since the early 1990s. According to TONRY, other frequently cited factors are not helpful either. The public opinion is pretty much the same in all Anglo-Saxon countries. GARLAND's late modernity theory explains too much. CAVADINO & DIGNAN's economic explanation is also not helpful. TONRY says that the imprisonment rate is surely related to income inequality, the political system, welfare, citizens' trust in each other and government. It does not explain its exceptionalism though. In his opinion, we can understand this by looking at **four features**.

The first factor is about **political paranoia**. HOFSTADTER was the first one to speak about this. This paranoia is somehow related to the clinical paranoia. The US sees its own nation and its own communities as victims of conspiracy by others. Therefore, they do not look for compromises. In the 20th century it waxed three times. The first was in the 1920s and 1930s and was exempflified by prohibition, the Red Scares of the 1920 and the xenophobia and isolationism of the entire period. The second explosion was in the late 1940s and 1950s and is exemplified by Senator Joseph McCarthy. The third dates from the 1980s and is exemplified by recent decades' wars on drugs, crime, welfare recipients and illegal immigrants. In TONRY's view, the right-wing of the Republican Party has been responsible for revitalizing the paranoid style since the 1970s in two ways: (1) using crime, welfare and affirmative action to provoke white southern and working-class enmities toward blacks and (2) incorporating ideas of the John Birch Society in political discourse, reducing legitimacy of judges and offenders' rights.

The second feature is about **protestant fundamentalism**. Ever since first American colonies were established, episodes of religion-based intolerance were often used to express xenophobia triggered by the immigration of new ethnic groups. In our time, some (though definitely not all) fundamentalist and evangelical groups are among the strongest proponents of the paranoid style of contemporary politics concerning issues ranging from abortion and gay rights to crime. An examination of attitudes toward capital punishment concludes that those fundamentalists 'who have a rigid and moralistic approach to religion and who imagine God as a dispassionate figure who dispenses justice are more likely to harbor punitive sentiments toward offenders'.

Major elements of the US' constitutional system are obsolete, designed to address 18th- not 20th- or 21st-century problems, and they make the United States almost uniquely vulnerable to the policy excesses associated with the paranoid style and religious fundamentalism. This **obsolescence of American constitution** can be reduced to three subparts: (1) election of police chiefs, prosecutors and judges, (2) their lack of civil servant status and mentality and (3) the involvement of elected politicians in decision making about individual cases. Almost nowhere in Western-Europe, Canada or Australia are judges or prosecutors politically selected. The US is also the prototypical conflictual system in LIJPHART's typology. Lastly, the contemporary media have multiplied impact of emotional reactions to crime.

The last feature is about **race relations**. Blacks (13% of population) make up about half of the prison population and of Death Row inmates since in the 1980s, despite blacks' declining involvement in serious violent crime. According to Tonry, the war on crime, the war on drugs were used as a way of keeping the black people in a subordinate position, a way of maintaining racial disparities and secure whites' higher status and political-economic dominance. These policies have been effective. The interests of black Americans are neglected though and that characterizes American crime policies.

TONRY says that globalization and neo-liberalism do not account for differences in national penal policies. The US' constitutional structural and cultural values are relevant to explain this US' exceptionalism: (1) US' 18th-century constitutional regime is key factor and (2) other relevant US factors are the paranoid strain, Protestant fundamentalism and patterns of racial hierarchy. But why have the specific US' cultural and political values evolved? TONRY says that one has to look at the puritanism and intolerance of the first settlers, the individualism and libertarianism associated with the frontier and the early slavery-based southern economy. Therefore, future research agenda should focus on history.

If we look at the crime situation of **Japan**, we see an exceptional position at the other hand of the continuum. It has very low crime rates in comparison to other countries. Reported crime increased up to 2,9 million crimes in 2002, but a sharp decrease has been seen since then. Since the beginning of this century, all crimes have been farther decreased. The murder rate is 0.3 (in Belgium 2 and in the US 5.3). All sorts of violent crimes are incredibly low. Even in yakuza groups a sharp decline has been seen, despite the lack of criminalization. In 1991 a law was passed that regulated the yakuza groups and they became a subject to some restrictions. Because of changes in the society, these groups have lost legitimacy and in particular some ordinances have cut off legitimate sources of income for yakuza, by prohibiting ordinary citizens and companies from doing business with them. All these changes have been accompanied by an increased feeling of security and informal social control.

If we move to the policies, the penal policies are exceptionally lenient. Japan's criminal policies are aimed at **rehabilitation through lenient sanctions** tailored to the offender's circumstances. Most defendants received a fine and only 6,2% receive a prison sentence over three years with a work condition attached. The imprisonment rate is very low. Moreover, there are huge efforts being made to secure rehabilitation and re-entry.

However, there have also been some shadows. There has been a big increase in forms of formal (e.g. security policies) and informal **social control**. Historically, state authorities have not been very powerful in Japan. Despite crime decrease, the number of police officers has grown (especially high in Tokyo). Because of all these police officers, even the pettiest crimes are investigated. Still informal control is much more efficient than the police: 30% clearance rate.

Perhaps even more troubling are the **disturbing practices** in investigation and prosecution stages. 9/10 of investigations and prosecutions rely on confessions. Many who admit guilty are innocent. Confessions are often based on harsh practices. Defendants have few rights. 99,8% of prosecutions end in a guilty verdict. There is also little scrutiny of prosecutors, who have much discretion. Moreover, the Japanese society is a homogenous society with stricter controls at the border and a tradition of crackdown on foreign residents.

Despite the overall lenient policy, the death penalty is still used (1-5 cases per year), new crimes were introduced in penal code (increased sentences for others), sentences have also grown more severe, semi-private prisons were built and prison life can be psychologically very harsh. In conclusion, there is a **possible increase in punitiveness** (except for the imprisonment rate).

Possible **explanatory factors** for the expansion or toughening of the criminal policy since the early 2000s can be (1) perception of crime crisis, pervasive sense of insecurity after 2000, (2) Japan's long-lasting economic crisis, growing inequality and poverty, rising divorce rate and number of single-parent families, (3) an increase of resident foreigners and related fears, (4) politicians' populism, (5) lower trust in police due to scandals and decreasing clearance rate until 2006, (6) declining insulation of law enforcement officials from public requests of harsh policies and (7) the shock of 1995 gas attacks in Tokyo subway and other crimes publicized by media. For JOHNSON, some trends are in line with GARLAND's Culture of Control. There might be some indicators of growing severity (e.g. death penalty, increasing sentences), however there is no much reason to justify a full comparison. The Japanese criminal policies remain very lenient. There are some moments of severity, but the parallel should not be emphasized. One has to see the criminal policy in the culture of Japan. Above all, Japan's communitarianism is not discussed.

If you look at all the criminal policies we have discussed, you can summarize this by looking at this table.

Determinants	B	NL	UK	Scandi.	US
Discussed by Tonry					
• Political culture (consensus v. conflict)	(X)	(X)	(X)	X	X
• Constitutional structure	X	(X)	(X)	X	X
• Mass media	X	X	X	X	(X)
• Anglo-Saxon culture (or lack thereof) (includ. Protestantism)	Prob. No	Prob. No	(X?)	Prob. No	X
• Simplistic conception of democracy (e.g., no experts)	X	X	X	X	X
Discussed by Tonry and Lappi-Seppälä					
• Income inequality	(X)	(X)	X	X	X
• (Weak) welfare systems	(X)	X	X	X	X
• Low level of social trust/per. legitimacy of government	(X)	(X)	(X)	X	X
• Fear of crime	X	X	X	(X)	(X)
Discussed by other authors					
• Functioning criminal justice system (Snacken)	X	X	(X)	(X)	(X)
• Budget constraints/Impact financial crisis (Daems and US: media)	X	X	(X)	(X)	X
• EU policies/International conventions (Snacken/Daems)	X	X	(X)	(X)	n.a.
• Key crime events/scandals (Daems and US: media)	X	X			(X) (Black lives matter)
• Migration trends/perceptions (Swaaningen)	X	X	(X)	(X)	(X)
• Crime trends (Newburn)	No	X?	X-New./ no	Prob. No	Prob. No
• Race/racism	unclear	unclear	unclear	unclear	X

Lesson 13 (17/12/2019):

If we look at criminal policies, we can ask ourselves the question to what extent these theories meet either consequentialist or retributive justice (legal moralism) goals. The imposition of **retributive justice** is a normative choice. One could argue that it requires no assessment, but is it correct? Retributive justice presupposes fair (i.e. full trial) and respect of prisoners. JEHLE & WADE's study and data on Belgium and other countries show that full trial has become more exception than rule. Prisoners' rights are not respected in many countries (Belgium and US). DUFF & HOSKINS, two legal moralists, conclude: "viewed in the light of many normative penal theories (one might almost say, of any plausible normative penal theory) our existing penal practices, especially those involving imprisonment (given the actual nature of our prisons) or execution, are not merely imperfect, but so radically inconsistent with the values that should inform a practice of punishment that they cannot claim to be justified."

To what extent are **consequentialist** goals met? No full assessment of consequentialist effectiveness is possible, without thorough evaluation. There are also some serious doubts about deterrence through imprisonment: incapacitation can only be reached punctually, and a growing consensus exists that imprisonment causes much harm. Some prevention programs work but many others, incl. popular ones, don't (ineffective programs: e.g., scared straight program, police drug prevention campaigns). Programs only work only in specific conditions: CCTV, many drug supply-side interventions. The shift from criminal policy to security policy entails growing emphasis on consequentialism (and particularly harm reduction). Punishment is no longer out of principle but opportunistic in private governance of security (shift from "post-crime" to "pre-crime" approach (ZEDNER)). It is a positive development but also contains risks in "actuarial justice" (risk assessment methods focus on single offenders' likelihood of violent behavior and crime). There is no empirical systematic assessment of harms of different crimes yet to inform decisions about criminalization, priority-setting and sentencing. No evaluation of criminal policy goals or of priorities has been set, but there is a clear focus on street crimes, whereas much more harmful law violations and actions by businesses and states are neglected.

So, what is a "good" criminal policy? The identification of **good criminal policy** depends on what we understand with "criminal policy" (for some only penal policy, while others refer to governance of security), the normative and empirical assessment goals/criteria we choose and the weight we give to different goals/criteria. If we adopt side-constrained consequentialism, the Finnish policy scores best. The reduction of harm of crime and criminal policy is set as an explicit goal, but even in Finland there is no empirical assessment of harm. If other goals/criteria are adopted, the choice might differ. However, US and UK current polices are hard to justify even if retributivism is chosen, because they are very costly and cause much intended and unintended harm.

If we adopt positivist understanding of theory (thus etiological) and quality criteria (e.g. A&A criteria), **WIKSTRÖM's SAT** is probably the best contemporary theory. SAMPSON's collective efficacy theory also scores high, but there is no integrated explanation. Other theories score less well on 'scientific quality' criterion but offers concepts and other 'food for thought' for reflecting on society and crime. In some cases, though, some statements have no empirical confirmation. GREENFIELD & PAOLI's theory is primarily a methodological (but also normative) theory. From the next page on, you can find all the A&A criteria of the criminological theories that we have discussed.

Appendix

A&A Criteria

A & A Criteria	Definitions
Focus	Main question theory addresses
Type and range of theory	Substantive/normative, etiological or not, PS/AS or IO/SO Specific crime/all crimes, criminal policy (intervention) or GST
Ontological assumptions	External world: yes/no; objectively experienced: yes/no; man: free will/determinism
Epistemological assumptions	Neutrality/Involvement of researcher + Explanation/Interpretation
Research methods (and related methodological theories)	Quantitative/qualitative Hypothetical-deductive/grounded/adaptive theory
Scientific quality	Internal consistency of theory/Empirical confirmations/ Causal mechanism/Integration of levels of explanation
Other (de-)merits	Innovative/policy relevant topic or approach, other strengths or weaknesses
Fitting/non-fitting cases	Examples of crimes/criminal policy interventions (not) covered
Policy implications	Policy measures drawn from theory

SAMPSON's CE Theory

A & A Criteria	Sampson's CE Theory
Focus	How does societal context influence crime?
Type and range of theory	Substantive // Etiological // P(not fully)S-SO-T // Neo-positivist
Ontological assumptions	Neo-positivistic, i.e., external world: yes // Objectively experienced: yes // Man: probabilism
Epistemological assumptions	Neo-positivistic, i.e., neutrality + explanation
Research methods (and related meth. theories)	Hypoth.-deductive/ quantitative
Scientific quality	++ Highly consistent // strong empirical confirmation // clear understanding of causal mechanism // major improvement in comparison with broken windows theory // - - no integration of levels of explanations
Other (de-)merits	++ Very innovative methods // very policy relevant // CE can also be applied to other institutions // -- -- neglect of opportunities (and hence less explanatory power for property crime)
Fitting/non-fitting cases	Neglect opportunity, does not explain why individuals commit crime
Policy implications	Enhance CE, above let organizations develop, holistic policies to reduce concentrated disadvantage

WIKSTRÖM's SAT

A & A Criteria	Wikström's SAT
Focus	What are the causes of crime? Why do people breach rules of conduct? // Youth crimes
Type and range of theory	Substantive // Etiological // P/AS-I/S oriented theory (perhaps still a bit more passive than active, given emphasis on causation)// neo-positivist
Ontological assumptions	Neo-positivistic, i.e., ext. world: yes // Objectively experienced: yes // Man: probabilism
Epistemological ass.	Neo-positivistic, i.e., neutrality + explanation
Research methods	Hypothetical-deductive and quantitative.
Scientific quality	++ Very consistent, excellent theory // helpful generic definition of crime and better definition of control (moral rules + self-control + external control) // Good understanding of causal mechanism, for the first time real focus on causation of crime // Unprecedented integration of levels of explanations // Balance between causes and free will //Explicit, fully developed theory of action with innovative emphasis on perception process and habit // - - causes of causes not well defined //crime not distinguished from other legal violations
Other (de-)merits	++ overcomes divide between person and environment-oriented theories of crime // - - concept of crime conflates levels of morality and law: it risks implying that moral rules are always positive and need to be respected (eg., homosexuality
Fitting/non-fitting cases	++ generic theory // - - not applicable to psychopaths, people with limited mental capacities or unintentional crime (e.g., traffic offences) // cannot explain different levels of crimes across societies
Policy implications	Increase individual's morality and, in short term, self control and controls in settings; prevent consolidation of crime habits //

Feminist perspectives

A & A Criteria	Feminist perspectives
Focus	Women and gender and their role in crime, victimization and criminal policy
Type and range of theory	No single theory, perspectives, both substantive (sometimes etiological) and normative, usually AS-SO but in liberal feminism also PS-IO (psychological) and in Marxism (PS-SO) mostly also political activism
Ontological assumptions:	Mostly constructivist and realist. External world: yes; object. Experienced: yes; man: free will
Epistemological assumptions	Mostly constructivist and realist
Research methods	Both quant and qual
Scientific quality: Int. consistency of theory/ Emp. confirmations/ Understanding of causal mechanism/ Integration of levels of explanation/	- No single theory, some etiological theories (e.g, Adler's emancipation) have not found empirical conformation, others not fully tested or more polemical (e.g. Marxism) + some very solid empirical work - On some issues no clearcut position yet (e.g., gender convergence and bias in CJ) - No full understanding of causal mechanism or integration of levels of explanation
Other (de-)merits	+ brought attention to women in crime, victimization and criminal policy/ challenged many traditional theories because they neglected women/ work on female victimization and women in prison has been ground-breaking and changed our views and policies
Fitting/non-fitting cases	Women and men as offenders, victims and targets of criminal policies
Policy implications	Numerous depending on theories: emancipation + programs for female victims and prisoners + equality in treatment or recognition of special needs? + is prison a solution?

Cultural criminology

A & A Criteria	Cultural criminology
Focus	Crime and control in context of (late modern) culture: constructions upwards and downwards
Type and range of theory	Substantive (partially etiological) theory, AS-SO theory
Ontological assumptions:	Constructivist but realist, external world: yes; object. Experienced: yes; man: free will
Epistemological assumptions	Constructivist but realist
Research methods	Only qualitative research, exaggerated criticism of quant methods
Scientific quality: Int. consistency of theory/ Emp. confirmations/ Understanding of causal mechanism/ Integration of levels of explanation/	- No single theory, hence low internal consistency and no integration of level of explanation + Good ethnographies remind us of role of emotions in commission of crime + good empirical studies about media loop and commodification of crime - Romanticization of male deviance and transgression: "zookeepers of deviance" - Vague causal claims about impact of late modernity on crime - Disregard of evidence on some crime forms and drop and effectiveness of some policies
Other (de-)merits	+ Links crim theories to broad social theories and changes (late modernity) + Many helpful concepts (social bulimia, vertigo) - Unclear how much it adds beyond labelling, subcultural theory and critical crim or how much mix of different theories is "digested" (e.g., Merton's strain theory + Katz's seduction of crime)
Fitting/non-fitting cases	Primarily non-utilitarian, (often juvenile and low-class) crimes (e.g., London riots) but also terrorism / Non-fitting: utilitarian crimes, OC, CC, crimes by women
Policy implications	Not explicit, but reduce constructions downwards and media construction of crime, reduce inequality, more inclusion

Critical criminology

A & A Criteria	Critical criminology
Focus	Capitalism and its impact on crime
Type and range of theory	Substantive (partially etiological) and normative /PS (originally in Marxism) now also AS-SO / political activism
Ontological assumptions:	Originally materialism realism external world: yes; object. Experienced: yes; man: no free will Now shift towards constructivism and recognition of free will
Epistemological assumptions	Realism
Research methods (and related meth. theories)	Preference for qual methods
Scientific quality: Int. consistency of theory/ Emp. confirmations/ Understanding of causal mechanism/ Integration of levels of explanation/	Appropriate focus on impact of capitalist system on crime and criminal policy but no integration of levels of explanation or detailed analysis of causal mechanism (intermediate phases are left in black box) - New versions are even vaguer and in case of ultra realism excessively complicated + some good descriptions and ethnographies - But also neglect empirical evidence (e.g., crime drop)
Other (de-)merits	+ Rightly discusses impact of capitalist system on crime and criminal policy and more recently impact of consumerism, late modernity and harms of leisure activities + Reminds us of unavoidable moral and political dimensions of crime and criminal policy
Fitting/non-fitting cases	Originally acquisitive and white-collar, now especially transgressive and non-utilitarian
Policy implications	Originally transformation of economic system, now especially reduction of inequality and

HILLYARD & TOMB'S zemiology

A & A Criteria	Hillyard and Tombs' zemiology
Focus	Harm (instead of crime) // No specific research question // theses proposed aim to cover all crimes (as well as non-criminalized harmful activities)
Type and range of theory	Normative (and substantive) theory, politically activist criminology, AS-SO theory
Ontological assumptions:	Constructivist, external world: yes; object. Experienced: yes; man: free will
Epistemological assumptions	Constructivist, thus involvement but in article no empirical work
Research methods (and related meth. theories)	No empirical work, but clear preference for qualitative research
Scientific quality: Int. consistency of theory/ Emp. confirmations/ Understanding of causal mechanism/ Integration of levels of explanation/	- No fully developed theory or methodology, programmatic text, thus poor internal consistency and no integration of levels of explanation - Authors provide insufficient empirical confirmation for their criticisms - No precise definition of harm
Other (de-)merits	+ Remind criminologists of normative dimension, ask critical questions on crime and aims of criminology // + Many criticisms of crime and criminal policies are plausible and attractive
Fitting/non-fitting cases	Criticism covers all sorts of crime // Work is particularly fitting for corporate crime and harmful activities that are not criminalized // No interest in causal explanation of crime
Policy implications	Focus on harm regardless of criminalization // more criminal measures for corporate crime but also suggestion to abolish criminal justice and criminology itself

WHITE's green criminology

A & A Criteria	White's green criminology
Focus	Study of environmental harms, law and regulations by criminologists
Type and range of theory	Normative (and substantive) theory, politically activist criminology, AS-SO theory
Ontological assumptions:	Constructivist, external world: yes; object. Experienced: yes; man: free will
Epistemological assumptions	Constructivist, thus involvement but in article no empirical work
Research methods (and related meth. theories)	Limited empirical work (case studies), no specific methodology, preference for qualitative data but openness to multidisciplinary sources of data
Scientific quality: Int. consistency of theory/ Emp. confirmations/ Understanding of causal mechanism/ Integration of levels of explanation/	- No fully developed theory or methodology, programmatic text and overview, thus poor internal consistency and no integration of levels of explanation - No agreement yet on normative framework or on definition of harms but broad understanding of latter
Other (de-)merits	+ Shift focus to harms of environment, which are important
Fitting/non-fitting cases	All activities, whether criminalized or not, directly or indirectly harming the environment + secondary crimes // Not applicable for crimes with no connection to environment
Policy implications	Minimize harms to environment and all its human and nonhuman inhabitants

Determinants of criminal policies

Determinants	B	NL	UK	Scandi.	US
Discussed by Tonry					
• Political culture (consensus v. conflict)	(X)	(X)	(X)	X	X
• Constitutional structure	X	(X)	(X)	X	X
• Mass media	X	X	X	X	(X)
• Anglo-Saxon culture (or lack thereof) (includ. Protestantism)	Prob. No	Prob. No	(X?)	Prob. No	X
• Simplistic conception of democracy (e.g., no experts)	X	X	X	X	X
Discussed by Tonry and Lappi-Seppälä					
• Income inequality	(X)	(X)	X	X	X
• (Weak) welfare systems	(X)	X	X	X	X
• Low level of social trust/per. legitimacy of government	(X)	(X)	(X)	X	X
• Fear of crime	X	X	X	(X)	(X)
Discussed by other authors					
• Functioning criminal justice system (Snacken)	X	X	(X)	(X)	(X)
• Budget constraints/Impact financial crisis (Daems and US: media)	X	X	(X)	(X)	X
• EU policies/International conventions (Snacken/Daems)	X	X	(X)	(X)	n.a.
• Key crime events/scandals (Daems and US: media)	X	X			(X) (Black lives matter)
• Migration trends/perceptions (Swaaningen)	X	X	(X)	(X)	(X)
• Crime trends (Newburn)	No	X?	X-New./ no	Prob. No	Prob. No
• Race/racism	unclear	unclear	unclear	unclear	X