

Knowledge Reifying Force-Intention-Harm K(F+I+H): The Nature and Structure of Crime

A Multidimensional Theoretical Model

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Abstract

Violence is regarded as a negative phenomenon and confused with aggression in social science to the detriment of analysis of their causes. We argue that violence is a natural phenomenon occupying a meaningfully different ecological space from aggression which involves elements of intention and harm and propose an eclectic multidimensional model encompassing both social construction and physical observation of violence for comparison and analysis of the structure of crime.

A 70 year old pensioner awakens to find an intruder, a big, young, shaggy haired man, carrying an object, wandering through his house. In a panic he reaches into a drawer and grabbing his revolver, fires repeatedly, killing the unknown assailant. Still shaking, he calls the police. The old man is charged with murder. Why? Where does he live?

In the play, *Mother Courage and Her Children* (Brecht, 1994) a sturdy matriarch halts her caravan at an execution site in the French countryside, realizing with horror that the man bound at the stake is her son. He explains, bemusedly, that he doesn't understand what is going on. Last week he had been raiding villages, raping and killing and pillaging and been commended by his commanding officers. This week he did the same thing and has been condemned to death. What is going on?

In the 1980s the Special Committee on Pornography and Prostitution (the Fraser Commission) held hearings across Canada regarding the public's attitude toward pornography. Representatives of various women's groups including young female lawyers of British Columbia enumerated the viciousness of pornography pronouncing that it "is the

theory and rape is the practice" (Morgan, 1980, p.139) and recommended redefining obscenity as material in the media that was violent and degrading toward women and others (Cossman, 1997). At the time, the first author (public lecture on crime and the media, 1983) was condemned as misogynistic by those groups for arguing that making material defined in such terms illegal in law, would come back to haunt the promoters. As predicted, Janine Fuller, purveyor of lesbian and gay literature via her Little Sisters Bookstore fought Canada Customs all the way to the Supreme Court of Canada for the right to order and disseminate such material (Fuller, 1995). Material precisely defined by the law that emerged from those recommendations. In 2004 she was granted an honorary degree by Simon Fraser University. Why? For fighting that law all the way to the Supreme Court, and was hailed as a champion of women's rights by feminists at the university. Go figure?

When we ask our students to describe a "crime against nature" they inevitably volunteer acts that pollute or destroy the environment or natural resources. In fact a book indicting the administration of President George W. Bush written by environmental attorney Robert Kennedy Jr. bears that title (Kennedy, 2004). In law, however, the term has referred (e.g., since 1814 in the US) to "unnatural sex acts" such as oral and anal sex still illegal in several states but totally legalized among consenting adults under the Canadian Criminal Code (Criminal Code, 1985). Perhaps the most famous case actually occurred in Britain in 1895, when the renowned playwright, Oscar Wilde was sentenced to two years at hard labour for engaging in such "crimes against nature" with Lord Alfred Douglas, the son of the Marquess of Queensbury (Hyde, 1963). In India, parts of Africa and in various Islamic countries such acts are punishable by life sentences or even death (In fact on May 29, 2010, the president of Malawi, which is 80% Christian, thanks to the intervention of the United Nations Secretary-General, pardoned a gay couple who had been sentenced to a long prison term for getting married ("Malawi pardons couple jailed for being gay", 2010). According to our students and Kennedy, however, the idea of crime against nature, has

evolved into something very different in the mind of the public. What crime? Whose nature?

Do those examples imply that there is no enduring consensus through history and across socio-cultural-political boundaries on what is a crime? Not so, say many criminologists such as Graeme Newman (1976) who found considerable agreement in the condemnation of several crimes among people surveyed in countries as widely ranging as India, Indonesia, Iran, Italy, the USA and Yugoslavia although there was some disagreement about the severity of punishment appropriate for acts such as robbery, appropriation or larceny, incest and, surprisingly, factory pollution. Homosexuality was perceived as deserving of punishment by a majority of informants in all but the USA sample.

If, however, the definition of a crime is the breaking of a law, described by Wilson and Herrnstein (1985) as an identifiable behaviour circumscribed in place and in time, then, ironically, states of tyranny imposing horrific treatment on citizenry by despots are not crimes, so long as they do not contravene the criminal code of their country.

Are all laws then purely arbitrary? No says Sorokin (2002) in his early landmark study. There are laws outlawing acts that are viewed as intrinsically bad by all societies and so criminal. An example would be murder and those identified by Newman (1976) crossculturally. In other words, acts that are *mala in se* (bad in themselves). But of course, not all acts are universally abhorred, so some are merely *mala prohibita*, crimes by virtue of an existing law. Are there some examples one can point to among our opening case studies or are they all *mala in se*? Perhaps.

Although murder, the intentional killing of another human being, is universally condemned and so is categorized *mala in se* (bad in itself), the definition of a human being employed and the circumstances in which the act occurs determine whether it is a crime in a society. In our *Mother Courage* (Brecht, 1994) example, her son was being executed because such killing was condoned by the state while war was being waged in the Thirty

Years War in Europe, but he had obviously not been made aware of an armistice declared while he continued to kill the enemy. Killing in peacetime was punishable by death.

Life versus Choice and the Intention to Kill

Driving through the Mt. Currie Indian Reserve recently, we noticed a sign on a church that read: Respect All Life From Conception to Natural Death. Clearly, the sentiment communicated there was that a fetus from its earliest form was a human being and should not be aborted. That is the position of the Roman Catholic Church and many other religions and was the case for many years in Canada and the USA. After a century or more of back alley abortions, deaths of young girls and women, and the misery of unwanted children, laws were passed in both the USA (or restrictions were declared unconstitutional as in *Roe vs. Wade*, 1973), and Canada allowing legalized abortions under specific conditions (Criminal Law Amendment Act, 1968-69).

Nevertheless, because of the individual predilections of hospital boards, some of them Catholic, and the lack of facilities in other locations, the reluctance of some women to submit their case to any public body and the belief that a woman should have ultimate decision making power over her own body, Dr. Henry Morgentaler, a Canadian physician established freestanding women's abortion clinics, in direct contravention of the law (Pelrine, 1983). Morgentaler was repeatedly charged and tried by jury. And repeatedly set free by those juries of his peers (Martin, 2008). That created a conflict between the written law and the will of the people which led to the law's being challenged as violating the charter of rights in the Canadian Constitution. As a result, the law was struck down as unconstitutional (*R. v. Morgentaler*, 1988) – an outcome largely produced by what we call community standards, a term referring to what the public will tolerate or not tolerate or what the public refuses to act on, despite the existence of the law.

Community standards and public will are the legal system's mechanisms, comparable to Darwin's mechanism of natural selection that determines what life forms will survive and thrive. In similar fashion they determine what laws will actually be enforced regardless of the efforts of government in a democracy to spell things out in legislation. For example blasphemous libel is a Canadian law, based on the precept that the constitution operates under God, making it a crime to verbalize harsh criticisms of any religion (Criminal Code, 1985). Whether the statute would survive a constitutional challenge is debatable, but the last time it led to a conviction (of an Anglican priest for posting a criticism of the Catholic church in Quebec) was way back in 1935. A similar law exists in Ireland but another was recently wiped from the books in the UK.

Laws against Imbibing, Ingesting and Inhaling based on Harm Done Versus Harm Reduction

Perhaps one of the most fascinating areas of criminality is ingestion of substances. Christianity blatantly supports drinking wine, whether turning water into wine as a highly promoted miracle wrought by Jesus Christ or using it in communion. So it could hardly be regarded as mala in se though in fundamentalist Muslim countries, it is strictly illegal, as it is in Mormon society and, in fact, groups led by The Women's Christian Temperance Union, despite the politically disadvantaged position of women in early 20th century US and Canadian society, were able to push through the laws of prohibition that prevailed in both countries: beginning in Canada in 1900 with Prince Edward Island, and eventually followed by other provinces well into the 1920s when they started to be repealed, province by province. With the passing of the Volstead Act the US followed suit from 1920 to 1933 which allowed Sam Bronfman, the notorious Montreal liquor producer and smuggler, to amass his fortune running booze to the US (Faith, 2007). And some say, for the Kennedy family to make theirs (Marrus, 1992). Obviously their opportunistic behaviour was regarded

as merely *mala prohibita* or it would have been much more difficult for those families to achieve the status and respectability they eventually did after prohibition was repealed. Just recently, Marc Emery, a Vancouver entrepreneur who made a fortune selling marijuana seeds to US buyers, turned himself in to US authorities for sentencing (“Prince of Pot will be extradited”, 2010). It remains to be seen what his place in history will be as California narrowly missed decriminalizing marijuana in 2010. Prohibition triggered one of the largest outbreaks of gang violence in US history as various mobs fought for their piece of the action in illegal sales (Boyanowsky, 2009), and the current prohibition on recreational drugs has spawned the same type of gang violence in normally peaceful Canada so the issue does indeed involve relative harm done on a much larger scale.

Not that the advocates of the ban had no basis for their enmity towards alcohol. Anecdotal evidence and scientific study to the present day can point to the effect of alcohol on human health (alcohol unlike other drugs distributes itself throughout every cell in the body, hence the characterization, “pickled” is valid; National Institute of Alcohol Abuse and Alcoholism, 2007), reduced economic productivity, domestic dysfunction, abuse of women and children, not to mention men, traffic accidents and deaths and disease and general public disorder, so a case was made for its being *mala in se*.

Defenders of alcohol argue for its positive effects as social lubricant, disinhibitor and relaxant and, especially with red wine, even as a reducer of strokes (the only medical advice the first author’s imbibing doctor father in law ever accepted from an academic). They often also point to it as the least of evils compared to recreational drugs, especially narcotics such as heroin and amphetamines such as crystal-methamphetamine. In the 1970s, marijuana was paired with alcohol in the public eye as a mild drug, probably little more dangerous than tobacco. The demon drug then was heroin as laboratory studies had shown that rats made physically dependent on heroin or its less refined counterpart, morphine would keep taking it and abstain from food until they died (Beck & O’Brien, 1980).

Professor Bruce Alexander, a psychologist at Simon Fraser University, noted how similar the lives of those woebegotten rats captive in bleak wire cages were to the desolate lives of heroin addicts. So he set up an experiment wherein all rats were made physically dependent on morphine. Half of the subjects were left in the single cages and kept taking morphine. The other half was placed in Rat Park where they could fight, procreate, build nests and establish social networks. Those rats, by and large, stopped taking morphine despite its continued availability and went "cold turkey" demonstrating how social circumstances and opportunities trump physical addiction and dependency (Alexander, Coombs, Hadaway, 1978).

Now the research shows that tobacco is exceedingly dangerous to one's health ("Tobacco in Canada", 2003) and even marijuana, in its most recent, extremely potent iteration, is dangerous and can trigger psychosis in some young people (Fergusson, Poulten, Smith, Boden, 2006), but "crystal-meth" has somehow preempted even heroin, then cocaine, as the most demonic drug, one that is regarded as so addictive and violence causing that it must be prohibited at all costs (National Institute on Drug Abuse, 2003, 2007). What has precipitated that change?

Heroin, actually its precursor, opium, was opposed by the Chinese who were forced by the British in two conflicts in the mid 1800s to allow its importation from British India (Moulder, 1977). Heroin was also marketed as a nonaddictive wonder drug, Bayer's H, in North America, and used widely by society matrons (our great and great, great grandmothers), to eliminate the vapours, a state of melancholy, and reduce "hysteria", (Askwith, 1998) until in Canada, the prime minister, Mackenzie King had it brought to his attention that not only Chinese "coolies" (workers) were using it regularly but white Anglo Saxon citizens as well and so introduced legislation making it illegal (Carstairs, 2006). So too, in 1919, the US courts ruled that doctors could not prescribe heroin to heroin-dependent people (Davenport-Hines, 2004). As mentioned earlier, the criminalization of

heroin and then marijuana and other drugs has fueled the second major crime wave in North America spanning Canada, the US and most virulently, Mexico (Carstairs, 2006).

The history of criminalization has tracked first alcohol, then heroin, then marijuana, then cocaine, then amphetamines, and finally, tobacco is now making its run to be declared illegal (Bailey, 2010) based on *mala in se* that is, intrinsically evil or bad. The actual lesson we believe may be gleaned from such events is that prohibiting dangerous drugs cultivates more crime than it prevents, that is, creates harm done, and that if society can somehow manage for most of its citizens to regulate the use of alcohol, the most dangerous drug (based on its effects on society physically and socially), that decriminalizing other drugs should follow and should lead to less crime in general. No one kills anyone over alcohol except where it is illegal such as on certain Indian reserves and in other aboriginal areas such as Nunavut in Arctic Canada. Those constituencies made it illegal to possess alcoholic beverages without a permit in hopes of reducing their epidemiological effects and that prohibition has, once again, made bootlegging remarkably profitable (The Globe and Mail, 2010). In summary, our analysis suggests that drugs wherever illegal, are rendered mere *mala prohibita*.

The naysayers disagree claiming decriminalizing all drugs will trigger huge increases in use increasing harm done (NSW Bureau of Crime Statistics and Research, 2001). Yet the one bold, decriminalization experiment undertaken so far, by Portugal, has demonstrated that, contrary to commonsense and moralistic analyses, there has been a decrease in the use of drugs, even by its young people (Greenwald, 2009) and likely a decrease in the rate of violence associated with the drug trade, following the trend set when alcohol prohibition was revoked. Hence significant harm reduction.

Mala In Se based on Religious Beliefs

The other basis for mala in se is religion. That is, God's or Mohammed or Christ's word is that the activity in question is against his will and so should not only be declared a sin but a crime. Thus devotees turn to their holy scriptures to align themselves against a certain behaviour or group. A case in point passed around the internet follows:

In her radio show, Dr Laura Schlesinger allegedly said that, as an observant Orthodox Jew, homosexuality is an abomination according to Leviticus 18:22, and cannot be condoned under any circumstance. The following response is an open letter to Dr. Laura ("Letter to Dr. Laura", 2004), written by an anonymous person though apocryphally attributed to Dr. J. F. Kaufmann (whom he claims it falsely made famous), and posted on the Internet.

Dear Dr. Laura:

Thank you for doing so much to educate people regarding God's Law. I have learned a great deal from your show, and try to share that knowledge with as many people as I can. When someone tries to defend the homosexual lifestyle, for example, I simply remind them that Leviticus 18:22 clearly states it to be an abomination ...
End of debate.

I do need some advice from you, however, regarding some other elements of God's Laws and how to follow them.

- a). Leviticus 25:44 states that I may possess slaves, both male and female, provided they are purchased from neighboring nations. A friend of mine claims that this applies to Mexicans, but not Canadians. Can you clarify? Why can't I own Canadians?
- b). I would like to sell my daughter into slavery, as sanctioned in Exodus 21:7. In this day and age, what do you think would be a fair price for her?
- c). I know that I am allowed no contact with a woman while she is in her period of Menstrual uncleanness - Lev.15: 19-24. The problem is how do I tell? I have tried

asking, but most women take offense.

d). When I burn a bull on the altar as a sacrifice, I know it creates a pleasing odor for the Lord - Lev.1:9. The problem is my neighbors. They claim the odor is not pleasing to them. Should I smite them?

e). I have a neighbor who insists on working on the Sabbath. Exodus 35:2 clearly states he should be put to death. Am I morally obligated to kill him myself, or should I ask the police to do it?

f). A friend of mine feels that even though eating shellfish is an abomination, Lev. 11:10, it is a lesser abomination than homosexuality. I don't agree. Can you settle this? Are there 'degrees' of abomination?

g). Lev. 21:20 states that I may not approach the altar of God if I have a defect in my sight. I have to admit that I wear reading glasses. Does my vision have to be 20/20, or is there some wiggle-room here?

h). Most of my male friends get their hair trimmed, including the hair around their temples, even though this is expressly forbidden by Lev. 19:27. How should they die?

i). I know from Lev. 11:6-8 that touching the skin of a dead pig makes me unclean, but may I still play football if I wear gloves?

j). My uncle has a farm. He violates Lev.19:19 by planting two different crops in the same field, as does his wife by wearing garments made of two different kinds of thread (cotton/polyester blend). He also tends to curse and blaspheme a lot. Is it really necessary that we go to all the trouble of getting the whole town together to stone them? Lev.24:10-16. Couldn't we just burn them to death at a private family affair, like we do with people who sleep with their in-laws? (Lev. 20:14)

I know you have studied these things extensively and thus enjoy considerable expertise in such matters, so I'm confident you can help.

Thank you again for reminding us that God's word is eternal and unchanging.

Your adoring fan.

PS (It would be a damn shame if we couldn't own a Canadian)

Clearly the point the letter writer, his/her disingenuousness notwithstanding, makes so eloquently is that if you use the scriptures to determine what is a crime, shouldn't you abide by them all rather than picking and choosing?

A Three Dimensional Dynamic Model for Analyzing Crime

Given the fragmented efforts of society for understanding and social control of such seemingly, extremely heterogeneous phenomena discussed above, we have developed a systematic model for identifying the gravity of all crime. It is an ecological, three dimensional system that identifies acts, first, according to the Violence involved but cautions that violence, unlike the multiplicity of negative characteristics attributed to it in social construction, is defined as the amount of Energy or Force released or exerted, is not necessarily malevolent or even negative or intentional. For example, we speak of a storm, earthquake or volcano as being violent and destructive, but unless we believe in the god Pele or Vulcan, or in God's wrath, etc., we do not impute intention to those often awe inspiring and destructive events. So too birth is violent, producing pain and even injury to mother and child but its purpose is to produce life rather than destroy it. And, as demonstrated in the Canadian experience with pornography, sex too, can be violent – that is involve considerable force expended, without necessarily harming the participants. In fact, by the late 1990s, the attempt to socially reconstruct bondage and other sadomasochistic sex had evolved to the point that a mainstream television channel, Showtime, had a regular program at 10 pm on Friday nights featuring the elaborate

bondage and other rituals of ordinary citizens. Again, underlining that violence is only negative when overlaid with attribution, but stripped of those connotations, is merely the use or presence of force or expenditure of energy.

Following the same line of reasoning, is it a paradox that relatively peaceful people like the Canadians or Swedes embracing hockey so passionately, make a strong distinction between the exhilaration of a violent body check that knocks someone into the boards, and so-called "Bertuzzing" someone, wherein you drive them from behind into the ice intending to inflict pain and even injury as Todd Bertuzzi of the Vancouver Canucks appeared to do against Steve Moore in an NHL hockey game? The action provoked an aggravated assault charge against him and a subsequent civil suit on the part of Moore whose neck was broken and hockey career ended (Shoalts, 2006). Thus an act can involve anywhere from zero to the maximum amount of violence possible, plotted as 0 to 10 on a 10 point scale independently of harm or intention.

That second major dimension of Intention is crucial to any analysis of the structure of crime. Thus if violence is high but intention is low, e.g. in a grand mal seizure, one could hardly make the person having the convulsion criminally responsible for any injury or damage resulting from the seizure. So too a child or an adult who has a tantrum by throwing themselves on the floor and pounding it with their fists can be quite intimidating but could only be regarded as aggressive if they pounded another person or damaged property, hence the legal term, *mens rea*, or guilty in the mind. If they lost their mind, i.e., became insane as did Vincent Li who murdered, decapitated and ate parts of his innocent victim, Tim Maclean, on the Greyhound bus crossing the Canadian prairies, they similarly could not be held criminally responsible, despite the bitterness of the victim's family and the outrage of the general populace (White, 2009).

In a similar fashion, someone who shoots at another person or property or runs a car at them is using Force and Intention to Harm and so the combination of violence AND

intention results in an aggressive act and violent crime which could be labeled assault or even attempted murder. Things are often not quite as clear if the intention is to harm but no violence accompanies it. A poignant example is the venerable story of a woman who took in older boarders and took care of them, fed them well and was paid from their pension checks until it was discovered she had insidiously poisoned them over time, slipping a little cumulative arsenic into their delicious meals and causing their deaths, with no pain or discomfort, in order to keep collecting their checks and to take in even more boarders in the same regimen. No or little violence but a maximum of Intent. In the case study we opened this essay with, we describe a strange intruder being discovered in the house and the frightened occupant's shooting him. In most US jurisdictions the occupant would go free but in Canada, the test is that the law permits just enough force to halt the intrusion. Thus if the intruder carried a gun, shooting would be more likely to be sanctioned. So too, interestingly, according to case law, would be the use of such violence if the intruder had a past record of violence in similar circumstances, even if the occupant was not aware of it, an odd, counterintuitive finding of the court (*R. v. Yaeck*, 1991), violence, again, standing alone. But something is missing in this analysis.

That is the third dimension of Harm Done. Thus a gunman who fires into a crowd but harms no one, gets a lesser sentence in law than one who manages to hit one or more people, but a gun bearer whose firearm discharges accidentally (as did Canadian General Daniel Menard's rifle in Afghanistan in 2010; Chase, 2010), though the result is also violent, perhaps 10 on the Force release- violence dimension, it is zero on the Intention dimension and so even if he had killed someone he would not have been held responsible for murder in a court of law [Ironically he was recently relieved of his command for purposely using another (in military parlance) "weapon," intentionally and presumably nonviolently, in a sexual encounter with a consenting female colleague]. Perhaps he would be charged with manslaughter if any possibility of intending harm could be divined or would be held liable for

merely carrying the gun or more so for not being sufficiently diligent in his care of the firearm. To wit, in some quarters it is flippantly suggested that one take an intended victim hunting if one wishes to escape prosecution for murder. How easily that could happen was demonstrated in the now infamous quail hunting accident when former Vice President Dick Cheney shot his companion who escaped relatively unscathed as they were using very small birdshot rather than goose loads or even slugs (Wallsten & Riccardi, 2006). And yet, the German singer, Nadja Benaissa of the band, No Angels, was recently charged with causing grievous bodily harm for having had sex with three men though she knew she was HIV (National Post, 2010). One developed AIDS.

This system of locating the act in a multidimensional space in order to evaluate its seriousness demonstrates also why the law finds it so hard to grapple with the new iteration of "crimes against nature" or against the environment, e.g., pollution. Not only is there very often no violence involved, but the degree of intention or even negligence is very difficult to measure. Thus like the poisoning of retired boarders case, it is difficult not only to detect, unless there is a violent event; for instance, the explosion and burning of the BP Deep Horizon oil platform in the Gulf of Mexico in spring of 2010 (Agrell, 2010), but also to prove mens rea, that is, the degree of deliberate culpability in the incident's occurrence.

To illustrate the three dimensionality of the system, as part of a larger study of the effects of seasonal temperature on violent crime (Yasayko, 2010) we laid out the differences among (a) purely verbal threats against bus drivers, which do not involve an intention to physically harm, versus (b) spitting at someone where the intention is higher and both intention and harm increase as we move to (c) spat on face, (d) physical assault and (e) assault with a weapon. As an aside, it is interesting that assault with a weapon which embodies all three components, Intention, Harm Done and Force exerted is not only the most serious crime but the one that was most highly correlated with seasonal temperature.

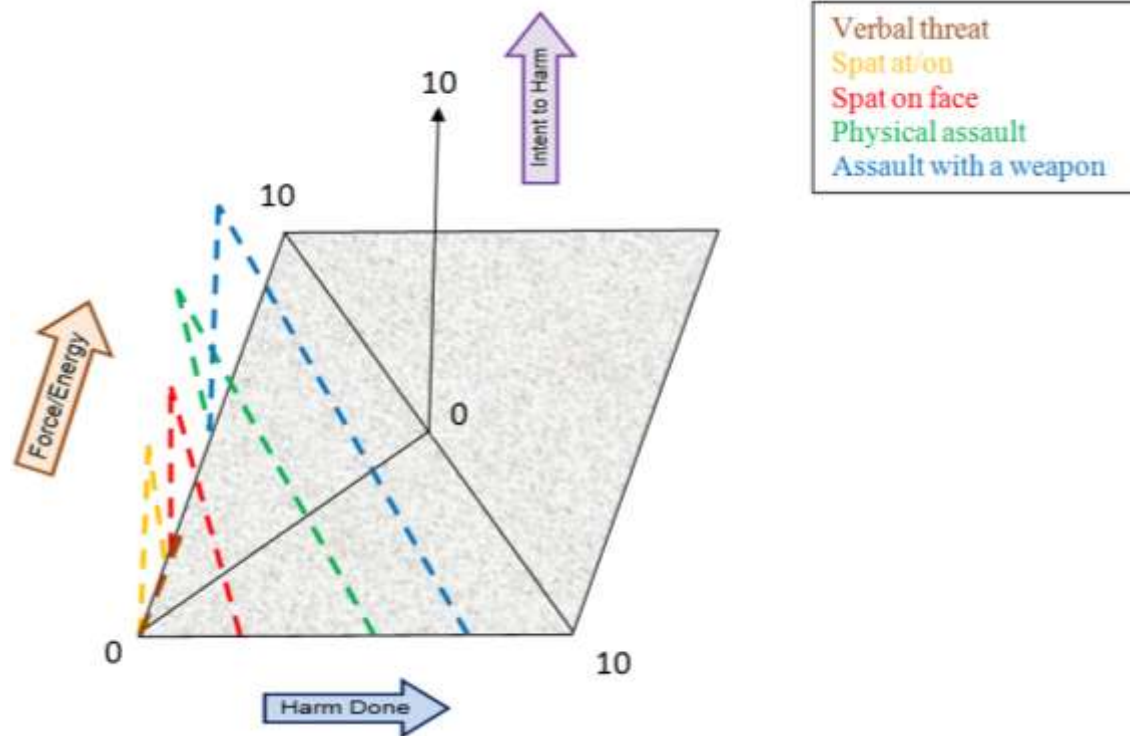


Figure 1. An Ecological Model of Violence and Aggression on bus drivers

The model above, by using three dimensions underlines the differences in ecological space occupied by different acts and why different people and institutions take such different stands on what should be society's appropriate reactions. For example murder by firearm would be recorded in space as Force=10, Intent=10, Harm=10 but murder by poison: Force=0, Intent=10, Harm=10. Thus an equally harmful, intentional act that may sometimes garner lesser sentences, perhaps because it is not so visibly disturbing to public order (i.e., violent). Death by pollution, which never attracts the same severity of penalty is better understood in this multidimensional space for there is usually very little Force employed and even though Harm Done may be high, Intention becomes very difficult to define, translating by default into "intentional" negligence and liability, a much softer parameter. Thus within the criminal justice systems of Canada and the USA, all three elements must exist for a crime to be regarded as true aggression, that most feared and

abhorred category of “violent crime” that is willfully harming someone in the most blatant manner, e.g. murder.

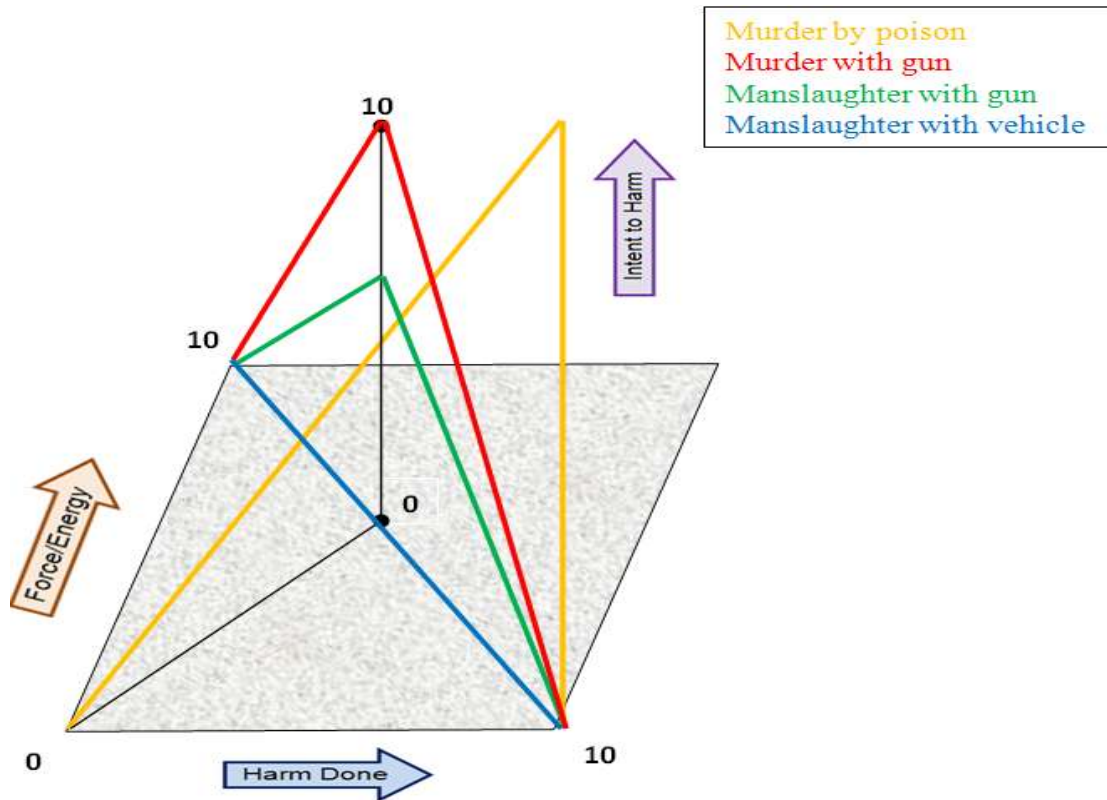


Figure 2: An ecological model of violence and aggression

By contrast in the social science literature aggression and violence are often used interchangeably, leading not only to theoretical misconceptions, but to demands for social and legal policies that may in fact be misguided if not downright damaging. To wit, we had a research assistant using our definitions, code 100 published studies on violence and aggression. The vast majority was found to be studying aggression although they usually referred only to violence. Perhaps more insidiously, a significant number identified acts as aggression although the acts by our definition were merely violent, especially studies of the social behaviour of young boys (e.g., rough and tumble play).

Abortion, for Prochoice (pro-abortion) supporters, would be equally Intentional and almost as Forceful as murder by firearm but would be viewed as 0 Harm Done. By contrast anti-abortion supporters would view Harm Done as 10 and emphasize the violence in the manner of the Prolife students at the University of Calgary who were censured by the administration for their display of dead aborted fetuses (Canadian Constitution Foundation website, 2010). Those antiabortionists reflected the sentiment seen on the church sign in Mt. Currie, referred to earlier. Some Prochoice supporters might admit harm done in late term abortion but argue a superordinate consideration: the right of women to govern their bodies trumping the right to life. That debate then morphs into the debate about capital punishment and war, both also with superordinate sanctions imposed upon the act by the state, rendering it, as discussed in the introduction, noncriminal.

That is, the model clarifies the debate between capital punishment advocates and those opposed to capital punishment and between those who approve of engaging in war versus so-called pacifists: there is no difference. The argument is merely whether one approves of or opposes the government's engaging in intentional homicide: murder for a superordinate purpose.

Accepting that caveat, with those three dimensions we can plot the severity of crime and the appropriate response by society's differentiating between aggression (Intention and Harm) and mere violence (Force expended or applied with no target or intention to harm). There is, however, a fourth dimension to which we allude repeatedly in our examples. That is the element of knowledge or conscious awareness. In the eyes of the law, one is incapable of Knowledge or Conscious Awareness (of causing harm or breaking the law) if suffering from a mental illness and so the horror of his crime notwithstanding, Vincent Li was not convicted of murder. On the other hand, Nadja Benaissa, although not resorting to violence, confessed to being aware of her HIV condition, though expressing no intention to infect her sexual partners and so was charged with aggravated assault. Should the young

Manitoba woman who ("Pregnant addicted women in Manitoba", n.d.), despite using alcohol, drugs and sniffing glue, repeatedly carries children to term be charged similarly as she is aware of the grievous bodily harm she is inflicting upon her children? If one takes the position that the right of a woman to make decisions regarding her body trumps the right to life or society to decide for her, does it follow that she must bear the criminal responsibility for damaging her children repeatedly and be treated by society as a criminal? That has not been society's recourse to date. Knowledge is clearly important here as well.

Both those examples create difficulty for society's attempts to deal with the acts in the same way that manslaughter with a vehicle and the sentence it garners often provokes outrage from the public for seeming too mild, for in all three cases Intention may be 0 or minimal, and it is difficult to argue it is more than that unless the person, like the intruder in the opening example, has a history of violence. Knowledge (Conscious Awareness) of the potential effect of one's actions usually is anywhere from 0 to minimal (1 to 3) but not high. Adding that fourth dimension of Knowledge completes the model, for now one can calculate as well, the degree of culpability of polluters in cases such as the Union Carbide explosion in Bhopal, India that led to the immediate deaths of 3000 people in 1984 ("Union Carbide knew Bhopal would happen: Activists", 2010) and many more since and the degree of responsibility that British Petroleum bears for the Deep Horizon explosion and horrendous oil spill in the Gulf of Mexico in 2010.

To determine degree of Culpability (C) theoretically, one can multiply Knowledge (0 - 10) x [Force (0 - 10) + Intention (0 - 10) + Harm Done (0 - 10)] to arrive at a result where Vincent Li (K=0) x [(F=10) + (I=10) + (H=10)] would score 0 without the formula's denying, as the victim's family protested, that he fully intended to kill his victim (Sinclair, 2010). Those with merely diminished intellectual responsibility (children, the mentally challenged) would compute but score low. But Nadja Benaissa would score ca. 70 as K=10 x [(F=1 + I=1 (liability at lower limit of intention) + H~5 (between minimal harm and

death)]. For the gentle, caring poisoner $C = (K=10) \times [(F=0) + (I=10) + (H=10)] = 200$. For the homicidal gunman $C = 300$ thereby reflecting the greater distress to society created by the use of graphic violence. And yet the polluter would score between 0 for a true accident to, as many claim in our two examples, a significant degree of Knowledge of the potential for disaster, 5 -10, with Force 10, Intention minimal at 1, but Harm not only 10 but a multiple of 10 [$10 \times D$ (for Dissemination)] with D based on the perceived widespread effects on people, environment and economy, a weighting factor yet to be determined but one with which judges and juries struggle in civil damage suits as well.

In a moralistic or religious society abortion would score very high (e.g. ~ 250). In a feminist society it is not computed at all, being legal as is capital punishment and waging war when dictated by the state. That analysis suggests the son in *Mother Courage* was wrongfully executed as he had no knowledge of the ceasefire that had been declared. As for abortion, it is interesting that in Canada, since the original law allowing abortions under strict conditions was struck down as unconstitutional, that no one has attempted to replace it, even the Conservative government that had promised to do so. The formula suggests that politically it would be difficult to justify analyzing the components involved.

In summary, the approach we have outlined allows acts normally attracting the attention of the criminal justice system to be analyzed in multidimensional space for their gravity and for comparison purposes, and may perhaps, not only contribute to the efforts of investigators of such phenomena but, given the implications, to the efforts of society's policy makers, as well. This model does not replace nor deny crime as a social construction. Rather it points out the confusion and even injustice that can prevail if social construction is alone applied to define violence, harm and intention. The eclecticism of the model proposed will hopefully inform the efforts of theoreticians, jurists and legislators.

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