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SPEAKERS

Jenn Tostlebe, Wim Huisman, Jose Sanchez



Jose Sanchez 00:14

Hi everyone, welcome back to The Criminology Academy where we are criminally academic. My name is Jose Sanchez



Jenn Tostlebe 00:20

and my name is Jenn Tostlebe.



Jose Sanchez 00:22

And today we have Professor Wim Huisman on the podcast to talk with us about white collar, corporate, and atrocity crimes. Wim is chair and professor of criminology at Vrije Universiteit Amsterdam. He is co-editor in Chief of the journal Crime, Law & Social Change, and he is a member of the board of the European working group on Organizational Crime (EUROC) of the European Society of Criminology. His research focuses on the field of white-collar crime, corporate crime, and organized crime. Thank you so much for joining us today, Wim.



Wim Huisman 01:04

Well, thank you for having me. And thank you for the kind introduction.



Jose Sanchez 01:08

I hope I didn't butcher those names, too badly.



Wim Huisman 01:12

Excellent pronunciation, and I also apologize for my Dutch accent.



Jenn Tostlebe 01:18

No apologies needed here. Alright, so a brief overview of today's episode, we're going to start off with some broad questions on white collar and corporate crime. From there, we're going to move into a book chapter that's authored by Wim on the involvement of corporations in atrocity crimes. And then last but not least, we're going to move into some differences between crime and punishment in the Netherlands versus the United States.



Jenn Tostlebe 01:45

So we're going to start off with, as usual, this big question, big umbrella question, that's sometimes difficult to kind of wrap, like a precise definition around. But when I think of white collar crime, and Jose, I don't know about you, but my mind tends to instantly go to a really well known TV show in the United States called White Collar with Matt Bomer. So very limited knowledge on this topic. Wim can you provide kind of an overview of what white collar and corporate crime are? And what makes them unique or distinct from each other?



Wim Huisman 02:23

Sure, I will. And I think American criminology well is a big help in answering this big question, because the concept of white collar crime was coined by the American sociologist, criminologist, you would say, I think nowadays, Edwin Sutherland, whom you may know as also the author of the Differential Association Theory. He coined this concept in 1939, when he was giving a presidential address to the American Sociological Association, and in a way, also accusing his fellow sociologists, criminologists, of studying mostly blue collar crimes, crimes committed by lower people in society, lower social classes, workers, and so on, street crime. While the elite, social elite can also do harm, but often this is not criminalized, at least not in penal law. So he was using this term white collar crime, which, of course, refers to the dress of these types of offenders and not having the blue referring, of course to the shop floor in the factory, and the white collar of the nice business suit of the manager or the director of the company.



Wim Huisman 03:35

Well, actually, he [Sutherland] gave several descriptions of white collar crime, but the definition that is mostly referred to is definition as follows that white collar crime is crime committed by persons of respectability in a high social status committed in the course of--very interesting--his occupation. That's the way he described white collar crime. Sometimes people say, Well, if there was a Nobel Prize for criminology, Sutherland should have received it because of giving us this notion, this concept of white collar crime. But he was also criticized by not giving a very clear definition. So after his landmark book in 1949, about the crimes of the 80 largest corporations in the United States of America, other students followed up on his work and made the distinction between on the one hand individual white collar crimes in which these sorts of offenders, let's say business managers, use their position for self enrichment, often at the detriment of the of the organization, for their own benefit. And on the other hand, crimes committed by business managers in trying to achieve corporate goals for the benefit of the corporation itself. And the latter one has been coined later on as corporate crime. So crime committed Yeah, some people say by corporations, that's a big question. That's the big question. Could we see corporations as offenders as actors, organizations, as actors, or people acting on behalf as agents of the corporation, for the benefit of the corporation. And so corporate crime, for me, is a type of white collar crime.



Wim Huisman 05:21



Wim Huisman 05:21

And by the way, if I may add, many criminologists think that Sutherland was the first criminologist pointing at white collar crime, but actually, it was a Dutch criminologist, the first professor of criminology in the Netherlands, Willem Bongers, who made the distinction in his dissertation, his PhD thesis in 1906 on economic crimes, he made the distinction between crime in the streets and crime in the suites. So that was the way he coined elite crime what what Sutherland later on called white collar crime. So being Dutch, that's something that I always like to add, when having a foreign audience.



Jenn Tostlebe 06:00

Yeah, absolutely.



Jose Sanchez 06:02

Yeah. It's interesting that you talked about and Sutherland brought this up, how we, as criminologists, we tend to focus on, like the blue collar stuff. And so we've learned, or I've learned that, and I think that's pretty true of not just criminology, but the social sciences in general, where we tend to what they call studying down instead of studying up. But studying up, sort of studying like these affluent, maybe upper class individuals, that presents some challenges that you kind of don't see with sort of like the blue collar populations, right? You can you tell us a little bit about some, like the challenges of doing white collar crime research?



Wim Huisman 06:46

Yeah. Yeah. Well, if you ask any random member of society and ask them, and what does a criminal look like? Ask them to paint a picture or description, give a description of a criminal, they won't paint a picture of a white collar offender. And because in many ways, the white collar offender differs from ordinary offenders or offenders of street crimes, you could say. And that's also something that makes it difficult to study. It's not always that clear that these acts qualify as crimes, there's a high level of moral and often also legal ambiguity, not paying your taxes, is that some thing that is very common in certain parts of society, and it's something that that is expected of you or that people think it's okay, or is it a crime? It's often not that clear. And also for that reason, and it differs a bit from time to time and from country to country, but generally speaking, I would say that, if you look at criminal policymaking, fighting white collar crime does not have the highest priority, especially being true for the United States during the previous administrations. And affects data because if there's not much law enforcement, there's not much reported crime. So there's not much data to work with. And well, doing interviews with high level managers, for instance, and talking about their crimes, maybe a bit more difficult to interviewing offenders of street crime, about their criminal decision making process. So I think, yeah, studying white collar crime comes with a number of challenges.



Jenn Tostlebe 08:24

So you mentioned like not paying taxes and these types of crimes. Can you provide a few more examples of what types of crimes really fall under white collar and corporate crime?



Wim Huisman 08:36

Actually, that's quite difficult to answer, because there have been debates in criminology on what actually is white collar crime and how to define it. So the two positions that you could say, there's the position taken by Sutherland, so

Sutherland's followers, they define white collar crime based on the characteristics of the offender, high social status, this is what we call an offense based definition of white collar crime. And the point that Sutherland was trying to make, because he referred to crime, but with crime, he did not only mean criminal offenses, because one of the points he was trying to make that harmful behavior of the social elite is not criminalized by criminal law. If it's regulated at all, harmful behavior of corporations of business, that would be with using civil law, or especially in continental Europe we say administrative law, so outside penal or criminal law. So with crime, he also meant the violations of those types of law. Now, if those violations could be sanctioned, then he would include this in his definition of crime. So in that case, the crimes, white collar crimes will often be the violations of such specific business regulation, regulation to prevent the harms to the environment, harms to workers, occupational health, safety regulation, for instance, harms to consumers, and so on.

W

Wim Huisman 10:09

The first large, empirical research project in the United States of America done in the 1970s, the so called you (?) project was done on the basis of a sample of I think about 1200 offenders who were convicted for eight types of fraud, basically eight types of fraud. And one of the things that the researchers did was to create like an offender profile, what do these offenders look like? And I think the title of one of their books that came out of this project says it all because that's the title, the title of the book is Crimes of the Middle Classes. And so that's different from the traditional stereotype of white collar offender being very social elite, Chief Executive Officer of a large corporation. These researchers said, well if we take such a sample of convicted white collar offenders, it's mostly middle classes, and therefore they also found different types of fraud--wire fraud, certain types of embezzlement--which would be different from the types of violations that corporate managers would commit on behalf of their corporation. So it's a fairly wide range of crimes, I guess. And it also differs when you take the offender based approach to white collar crime or you take the offense based approach of white collar crime, but most crimes if you want to use labels, I think especially if you look at the prosecution of white collar crime, most crimes will fall into the categories of either being fraud, some type of fraud, or corruption.

J

Jose Sanchez 11:44

Okay. So in at least in Jenn and I's experience, we, and I think this is true for a lot of criminology students is we learn criminological theory, but we usually learn you know, like the social control, differential association, general strain, etc. Does white collar crime fit under these perspectives? Or does it require a different way of thinking about it theory wise?

W

Wim Huisman 12:13

I think there are many ways to study and also try to explain and look at causes of white collar crime. And it's not only criminologists doing this, it's also from management sciences and organizational sciences, organizational sociology, social psychology, and each type of scientist will bring their own theories and try to apply this to white collar crime. So that means as criminologists we can often learn a lot from, for instance, Business Administration academics or organizational sociologists because they look at this organizational factor that is typical for white collar crime and which also, to a certain extent, sets it apart from from street crime.

W

Wim Huisman 12:55

But if you are a criminologist, if you look at textbooks, the one also that I'm using for my graduate course on white collar crime and most criminological textbooks on white collar crime, there will be a chapter in which the traditional

general theories of criminology will be applied to white collar crime. So indeed, strain theory, social control theory, self control theory, neutralization techniques, and so on. And usually they work to a certain extent. And one of the leading scholars in this field is Sally Simpson, she's my big hero, and she once made the critical point, she had some criticism towards this approach of just applying general criminological theories. She calls this the add white collar crime and stir method. So to a certain, on a certain abstract level, it will always kind of work applying these theories.

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Wim Huisman 13:51

And some do better than others, I think, especially strain theory, but not the macro version by Robert Merton himself, but more the individualized version by for instance, Robert Agnew. They work well, because of course, strain is about deprivation, not absolute, but but relative deprivation. So, especially in the field of business, that can be a situation in which you could say, well, certain general goals apply or having economic success. We're in, our companies in a competitive market and it's a general prediction that in the end only a couple of companies will prevail. It's a market of mergers and so on; companies taking over each other. And then as a company, you have the choice, Are we going to be prey or predator? And then the cultural value in a way in businesses, and this is also what a shareholders like to hear is, we will be the predator right? So we will be leading company in this branch of industry or this market. So that's like a general goal for every company, in the sense of the strain theory. But the means to achieve this goal will not be equally distributed within the market.

W

Wim Huisman 15:04

So I think a very good case in which you can use strain theory as an explanation, for instance, is the diesel admission fraud case by Volkswagen, you've may have heard about this, it has been a large case in the United States, as well as in Europe, especially in Germany. I think this month, the criminal trials have started in Germany, prosecuting the highest level managers of Volkswagen, the car manufacturing company. Volkswagen wanted to enter the US markets in order to be the largest car manufacturer in the world. But they had stiff competition in the US, in the American market, especially by cheaper and cleaner Asian cars. So but Volkswagen was not in a very good position to win this competition with building electric engines. So they have invested heavily in the diesel engine, which was originally from trucks, right. So there was this ambition to create a clean, that would be their mean, their way to achieve this goal of being the biggest car manufacturer in the world was producing a clean environmental friendly diesel engine, and they could not do it. So what is in the strain theory, the explanation for crime? Crime is innovation. If you want to achieve the goals, but you do not have to means, you come up with alternative means as a way of innovation. But these alternative means are illegitimate means. And this is a perfect example, they came up with the invention, the innovation of using a cheap device to have a piece of software, cheating diesel emissions of the car, when it's in a controlled condition when these emissions are measured. So this is really very much a story that is in line with a strain theory of an explanation of crime.

W

Wim Huisman 16:48

So I think this goes for many criminological theories that to a certain extent, you can apply them to white collar crime, even for instance, social control theory. Often, it is said that off those theories, social control theory by Hirschi about the social bonds, is not a good explanation for white collar crime, because then the general assumption is well, that compared to ordinary street offenders, the social bonds of white collar offenders are very good. Okay, but that's not a fair comparison. If you want to understand the contribution of those social bonds or the lack of those social bonds to their behavior to the commission of their crimes, you have to compare them with their law abiding peers. And in a research project in the Netherlands, we have done so. And the outcome was that the white collar offenders that we studied in the Netherlands, when we compared them to a control group, a matched control group of peers in

the same type of business, same type of position, and so on, but not being prosecuted for a white collar offense, the white collar offenders were at lesser social bonds. So again, to a certain extent, this theory seemed to work because it seemed to contribute to the explanation of the crimes committed by these business managers.



Jenn Tostlebe 18:04

Right. Are there ,because I've never taken a class on white collar crime, they're like, very distinct, which has always made me kind of sad, because I've always been interested peripherally in white collar crime and just never learned about it. Are there specific theories devoted to white collar crime? Or do most people just use these more traditional theories in criminology?

W

Wim Huisman 18:26

Yeah, I think if you look at white collar crime courses within criminology programs, it's mostly the application text of these general theories to white collar crime. Some work better, so they will be focused, for instance, I think, again, neutralization technique theory has been developed by Sykes and Matza in the 1950s to understand juvenile delinquency. But they work very well in understanding white collar crime because white collar offenders generally do not have a deviant self image. In committing their crimes they want to uphold, also for themselves, the image of being a respectable citizen, respectable business manager, and therefore, they need these neutralization techniques the most to be able to maintain that non deviant self image. I think, and interesting of course, it was Sutherland, who came up with the Differential Association theory, but he was studying white collar crime. So this is a theory that works very well for explaining white collar crime and deviant subcultures within branches of industry and corporations.

W

Wim Huisman 19:27

So, I think if you would say that there are specific theories in understanding white collar crime, actually, they are introjections of explanations and theories from other academic fields into criminology in order to understand white collar crime. So for instance, to give one example, I think a very important factor in the causation or the explanation of white collar crime and especially corporate crime is the notion of corporate culture, business culture. And in organizational sociology, Management sciences and so on various tools have been developed. And theories have been developed about what is a corporate culture? And how does corporate culture work? And criminologists in applying those tools, validated instruments that have been developed to measure corporate culture. Then we ask corporate crime criminologists, white collar crime criminologists have applied that to find a correlation between for instance, an ethical business culture and the level of rule breaking and white collar offending within the particular Corporation. So I think that would be new to criminology. But actually, we take it from another discipline because it works well in understanding white collar crime when we look at the role of the organization as an explanatory factor.

J

Jose Sanchez 20:48

Okay, so now we want to move a little bit about policing and punishment. Is white collar crime, difficult to police? And if so, why is it challenging, sort of to catch white collar offenders?

W

Wim Huisman 21:06

The first reason to assume why it's difficult is that there is so little policing, right, so little prosecution. So this has

something to do with policy priorities, and politics and so on. But it's also indeed, because it's hard to do. Policing and prosecuting white collar crime is more difficult than policing or prosecuting street crime for a number of reasons. It has to do something with the nature of the offender and the nature of the offense. So the nature of the offender, they have a respectable business, seemingly respectable businessman, that does not fit well into the general image of a criminal. So this Yeah, appearance of legitimacy is creating a barrier, I think, for giving it law enforcement priority. And when you look at the offenses, many of these offenses are characterized when you compare them with ordinary crimes with a certain level of moral or legal ambiguity. It's not always that clear that it's criminal. So often, it's not a violation of the 10 commandments. In legal theory, we often make a distinction between mala in se crimes and mala prohibita crime. So I'm not sure if you're familiar with his two distinct distinction but traditional crimes mala in se, you do not really have to check the law, the penal code to realize that you cannot steal, you cannot rape, you cannot kill; everybody knows that. But this business regulation, the things that you should do to prevent harm to the environment or harm to your workers, or the integrity of your financial accounting, it's not always that clear. And it's the context. It is committed in the context of legitimate organization or business practices. So how to distinguish the illegitimate practice from the from the legitimate practice that's often very hard to do. It also has something to do with the burden of proof. And establishing mens rea, the guilty mind, often corporations do not intend to do harm or to commit a crime, they just want to make money and make a profit. And especially for corporate crime, if you look at the violation of these business regulations, the most traditional crimes are crimes of commission, you should not commit burglary, you should not commit rape. That is doing something that is illegal, but it's a certain action. If you look at the business regulation, it's most of that regulation is demanding a certain type of action by the Corporation, they have to put in place certain equipment to prevent environmental pollution discharges, to protect the safety of workers to come up with financial accounting and reporting. So compliance with these regulations takes effort. So many corporate crimes are not crimes of commission, they're crimes of omission. But that's also more difficult to police. And to prove that you did not do what you should have done. Instead of that you can prove that you committed an illegal act, an illegal act. So those I think, are a number of reasons. And then well, of course, especially when you take the offence based approach, the crimes of the middle classes of white collar crime, it's it's not the case that every white collar offender is very rich. But if you look, you take the offender based definition, high social status, and especially with corporate crime, then you talk about powerful offenders who have power and who have the money to hire the best defense lawyers. So that's also a reason why difficult, I guess, for public prosecutors to successfully take on these cases and prosecute CEOs or large corporations.



Jenn Tostlebe 24:43

So many reasons.



Wim Huisman 24:44

Yeah. Yeah, it's a long list of even more reasons why it's difficult and therefore in most countries, you see less policing, less prosecution of white collar crime compared to street crime.



Jenn Tostlebe 24:59

Yeah. All right, so let's start to slowly move into the chapter we're going to be talking about today. And you've alluded or mentioned some of these things before, but what are some of the consequences of white collar and corporate crime for, you know, the employees of the businesses, the actual consumers of products from the businesses, or even just the community where the business is located, their physical location or where their activities are happening.

W

Wim Huisman 25:27

Now, that also connects with what we just discussed, because another reason why there's this level of moral legal ambiguity is because victimization of white collar crime is less clear. So it's difficult to compare the sort of victimization, the damage that white collar crime is doing compared to street crime, but the attempts that have been made, they all have the same outcome that they assess the harms of white collar crime exceed harms of street crime, but they're less visible. And there are a number of reasons for that, I guess. Often, there's a time space gap between a decision that is made in a corporate boardroom, in Amsterdam, or somewhere in the United States of America. And the harms as a result of that decision that occur years later in another country, on the other side of the world and this is the victimization of corporate crime, but because the connection with the offending is not that clear. And often also, there is collective victimization. So victims may not know that they are the victim of fraud, because it's a successful fraud, and they will never know, or think of price fixing. Many people are victimized a little because of an illegal cartel, we pay a little too much for a certain product, but we do not know. And it's only little, but it's also, it's a lot. It's damaging economic conditions. And finally, especially with some financial crimes, victims also feel responsible because they're not only a victim of the corporation or the offender, they're also a victim of their own greed. And so I think those are a number of reasons why the victimization, and the harms are less clear.

J

Jose Sanchez 27:11

It's interesting when you bring up the people feeling the effect of white collar crime might not even be in the same country, as the corporation. It just reminded me of I don't know, if you are familiar with the Nestle infant formula scandal that was happening in Africa. Like I can't remember the exact details. But yeah, like Nestle is not based out of Africa. But, you know, it was it was African mothers that, like their infants were dying, because of Nestle. I can't remember exactly. But yeah, I think that's a really interesting point to bring up that you may not

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Wim Huisman 27:49

And I think this is especially true, because we're moving to that chapter, especially true for the type of corporate crime that I'm trying to study in this particular research project. That compared to other types of corporate crime, the harms are even more externalized to other parts of the world. Yeah.

J

Jose Sanchez 28:07

Right. Okay, well then I think that's a perfect segue to get into your chapter. So we're going to talk about this chapter was authored by our guest Wim and his co authors, Susanne Karstedt and Annika van Baar. It's called The involvement of corporations in atrocity crimes, and it is to be published in the Oxford Handbook on Atrocity Crimes on January 22, 2022. And this chapter provides an overview of the involvement of corporations in atrocity crimes. The term "involvement" means that a link between the company, its activities, and the commission of atrocity crimes can be explicitly identified. In the chapter, Wim and his coauthors first define the features of corporate involvement in atrocity crimes. Second, they provide an empirical overview of the involvement of corporations in different types of crimes since 1945 focusing on the processes and mechanisms of such involvement. Finally, they provide an in-depth analysis of two historical cases of the involvement of corporations in atrocity crime. So with that being said, Wim, our first question is, what did you hope to accomplish in this book chapter? Like, what was the end goal when you decided to write this chapter?

W

Wim Huisman 29:30

Yeah, it's twofold. I wanted to introduce a new type of perpetrator to the field of study of atrocity crimes, and I wanted to introduce a new type of crime to the field of the study, the criminological study of corporate crime. So we just discussed the study of white collar crime in criminology is not that new since Sutherland introduced the term more than 80 years ago, we've been studying this. But the study of atrocity crimes or international crime is fairly new, which is quite shocking actually. These are the most harmful the most heinous sorts of crime that criminology has left at the side until a bit more than a decade ago. And I wanted to join this new field of studying atrocity crimes, but by, because in the field of atrocity crimes when they talk about perpetrators and study perpetrators, it's mostly military, either being soldiers doing the killing, or the raping, or the generals giving the orders, it will be politicians creating conflict or having dictatorial rule, and so on. But you would not think of business people and corporations as perpetrators of atrocity crimes. So that was my aim of introducing this new type of perpetrator and this new type of corporate crime.



Jenn Tostlebe 30:43

Alright so then, what are atrocity crimes? And how are you relating them to corporate crime?



Wim Huisman 30:50

Yeah. Well, like I said, I think that the term atrocity crime is used, I guess, especially you being native speakers, you know, what atrocities are? So I think we use the term atrocity crime for the most serious and the most harmful human rights violations that that affect individual victims, as well as communities, regions, or even nation states. And whatever government I guess if you look at them, of course, when you try to define crime there's always this struggle, are we going to take a legal approach? Do we look at the law to define the crime? Or do we take a more sociological approach? But from a legal perspective, I think what these crimes have in common is that they're Firstly, criminalized by the international community, they're so heinous, so harmful, but often state actors are perpetrators, and therefore, the international community, especially, for instance, after the First World War and the Second World War, have defined and criminalized these crimes in international treaties. And which boils down into the Rome Statute in 1995, which is the basis of the jurisdiction of the International Criminal Court. And that includes crimes against humanity, war crimes, and genocide.



Jenn Tostlebe 32:01

And so in the in the book chapter, you go through a couple of case studies, but just for our listeners, can you just briefly provide like two or three real world examples of atrocity crime that's happened over the last 50 to 100 years?



Wim Huisman 32:18

Yeah, sure. Well, there's so many, so that it's hard to pick. But perhaps the best way to start is by looking at the crimes by the Nazi regime during the Second World War in, in Germany, of course, then you think of the Holocaust and genocide of the Jews, and the destruction camps. Well, we all see these Nazi leaders who stood trial after the Second World War in Nuremberg, the famous Nuremberg trials, these were Nazi leaders, political leaders, but also military leaders being held responsible for these crimes. But what not many people know, there were a series of trials in Nuremberg. And actually, if you ever go to Germany on vacation, for instance, you can visit the building, it was a local court until six years ago, so it's all there. But part of these proceedings were trials against former business leaders in Germany, former leaders, business managers of, for instance, IG Farben, the largest company in the world, at that time, a chemical company, which built a huge factory, next to the destruction camp of Auschwitz, in which they used slave labor to produce artificial chemical fuels. But for instance, if you look at the gas chambers, as you

may know, victims were killed by using Zyklon B gas. Well, that gas was produced, of course, by a company. So this is, I think, the first case but also the first context in Nuremberg trials in which this type of perpetrator, this type of perpetrator was acknowledged there because not only the Nazi leaders and military leaders were prosecuted, but also business leaders.

W

Wim Huisman 33:59

If you look at well, contemporary cases, especially after the Arab Spring, and the uprisings that we have in the Middle East and the Civil War following in Libya and in Syria, a number of companies have now been accused and prosecutions have been started in France against IT companies developing and selling a surveillance software to the regime of Gaddafi, the former leader of Libya. And the software was originally meant to officially meant to track down terrorists but of course, the definition of a terrorist by the Gaddafi and his regime were political opponents. And we have similar cases in Syria of similar surveillance software being produced, used by the Assad regime to arrest people. You can imagine what happened to those those people. And these would qualify as crimes against humanity or perhaps war crimes. Then there are a number of interesting US cases as well. If you look at the occupation in Iraq, 36% of the reported abuses in Abu Ghraib prison were committed by personnel of American companies and not military personnel.

J

Jose Sanchez 35:10

Yeah, that's interesting. Okay. Okay. So one of the things that we pointed out a little earlier was that one of the goals was to outline the extent and nature of corporate involvement and atrocity crimes. And so to do this, you use data from your own comprehensive database, the Transnational Corporations and Human Rights Violations or TransCorpHRV data set, which includes 103 cases of corporate involvement in atrocity crimes, including crimes against humanity, war crimes, and genocide from World War II to 2019. And so, our question is, since 1945, how has corporate involvement in atrocity crimes changed over time and place?

W

Wim Huisman 36:03

Yeah, actually, the analysis in the chapter was based on the first batch of a little over 100 cases. After that, we kept looking for cases. And now we have, I think, now we're at about 171 cases, in which corporations have been accused, because that's the selection criteria. And when a corporation has been accused of being involved in such crimes, atrocity crimes, we include it in the database and analyze the case further. And yeah, the starting date, in a way because this from a legal point of view, this issue has been defined at the Nuremberg trials. So we take on cases since the Nuremberg trials, so the cases involving German companies during the second world war were the first cases. And if you look in the decades after that, in a way, these cases follow the context in which these atrocity crimes are committed. And you could say roughly the other two types of contexts, it could be a combination as well, it's either situations of armed conflict in a country, for instance, civil war, and corporations are involved in deaths and operate in that country. Or the second type of context is authoritarian rule. So dictators and corporations being involved in the crimes of those dictators, and their regimes. And so if you follow history in the 1970s, it would be in Latin America, that the military dictatorships in Argentina, for instance, and the corporations being involved in the objection of workers of union members, in addition, the torture and disappearance of those union members and the killing, of course, which would be crimes against humanity; the 1990s civil wars in Africa, in Liberia, Sierra Leone, the well known case of the blood diamonds, for instance, in the movie with Leonardo DiCaprio, and diamond businesses being involved in the trade of those blood diamonds as well; the armed conflict in the DRC, the Democratic Republic of the Congo, we have coltan and cobalt in every mobile phone and tablet, and these are conflict commodities related to these atrocity crimes in the harvesting of those commodities. And then, yeah, we end up in the Middle East

in those uprisings after the Arab Spring. And I should not forget cases that we also have in Asia, the same type of context there, for instance, the military rule in Myanmar, Western companies, being involved in joint ventures with state companies ruled by the military in the extraction of fossil fuels in Myanmar, for instance.



Jenn Tostlebe 38:31

So have atrocity crimes increased over time, or have they stayed about the same over this time period that you're looking at?

W

Wim Huisman 38:41

That's a good question. And that's for me a difficult question to answer. I should refer to the work of my colleagues, Susanne Karstedt, because I'm the white collar crime criminologist in the in this project and she's the atrocity crime criminologist and she set up a database, measuring conflicts and atrocities that have been committed. I think, in a way you would see a rise. But the question, of course, is, Are there more atrocities committed in history, or recent history? Or is this more like a registration effect, because it was only after these international treaties that we have defined these crimes. I often, in my class, I have a special course on this particular topic. I often start with the example of the first modern cooperation in the world. And I like to give this example often, because I have many international students in this course. And we always have a fight with the Dutch with the British of what was the first modern company in the world. The British would say, well, that would be the British East India trading company because that was founded I think in 1600. And the Dutch would say, well, it's the Dutch East India Trading Company, which was founded in 1602. The difference with the British one is that the Dutch one was the first with having tradable shares. So one of the elements of a modern Corporation, but this first Modern Corporation of the world, the Dutch East India Trading Company was also the first company being involved in a genocide. Because in the archipelago of the Banda islands in nowadays, Indonesia, they had a control, this company just decided to get rid of the local population, which is basically genocide. But of course, you know, too, we did not have the international treaties to define those crimes yet.



Jenn Tostlebe 40:24

Right. Okay. So also in this book chapter, you examined differences between like the physical location of the corporations, where they were physically at, and then also the location of the atrocity crime activity that was occurring. And in doing so, you point out that there, which I thought was really interesting, that there are no reported cases of corporate involvement and atrocity crime activity in North America. But many of the corporations are actually located physically in North America. And so this kind of seems like a big paradox between the location of the company and the actual activity. So do you think that's due to like politics, the fact that US corporations don't really operate domestically a lot, or like locations and power, or something else?

W

Wim Huisman 41:18

There may be a bias in the data, I should say first. Like, activist lawyers, human rights groups, bringing forward exposing these cases, and they come from mostly come from the same countries as these corporations. So these will be Western based human rights groups, NGOs, exposing the harmful conduct of Western companies in developing nations. So we do have a few companies that are based in Asia, for instance, in China, for instance, but not so many. But that does not necessarily mean that Western companies are more evil than Asian companies, it might reflect this bias of the NGOs working on these cases. So that's the first remark.

W

Wim Huisman 42:01

Secondly, is it politics? Partly. I think, in general, you could observe that the governments of developing nations are not that eager to regulate the harms that their corporate nationals are doing in other countries. They regulate the harms that corporations are doing in their own countries. So if you look at the first textbooks behind me on corporate crime, by Clinard and Yeager in 1980, studying the crimes of America's at this time, 500 largest corporations, it's all national. So they make a distinction between six types of corporate crime, it's always a challenge to remember all six, but environmental offenses, labor offenses, occupational safety, and so on manufacturing offenses, unfair trade practices, administrative offenses, and that's 5, I'm forgetting, but what they have in common is there is not a category of human rights offenses or human rights abuses, because these harms are on a national level. American companies harming the environment in United States of America, harming American workers, harming American consumers, harming the American taxpayer, and so on. So the type of corporate crime that I'm studying is not in that textbook. So criminologist, and you could say a national regulators do have a focus on corporate crime in a national context, but they're not that willing to regulate the harms that these corporations are doing abroad, because that may harm the economic interests of those corporations, and therefore, national economy, that could be a political reason. But I don't think that's the only case.

W

Wim Huisman 43:39

It's also related to the nature of the business of these companies and where the business is found, because we looked at the types of industry, the branches of industry, the types of companies that are involved in those cases, and it differs a lot. So some companies, certain branches of industry run a high risk of becoming involved in these atrocity crimes, then companies from other branches of industry, so that's not so much politics, it's related to the business and the most prevalent industry is extractive industries. So the extraction of fossil fuels, of ores, of gems, they are often found in countries that are not very well to do--developing nations. And of course, the big question is, is there a relationship between these countries being rich in natural resources and also suffering from high levels of corruption, poverty, being non democratic, often having conflicts and and so on. This is what in academia is referred to as the resource curse. So it appears that that there is a connection, but the resources found, the natural resources found in those countries think of cobalt and coltan in the in the in the DRC is bringing the multinational companies from Europe, from America, and I'm sure from China as well to those countries to harvest those commodities and therefore they become involved in the local situation and the crimes committed by the people with whom they need to do business.



Jenn Tostlebe 45:04

Yeah.

J

Jose Sanchez 45:06

Okay, so crimes against humanity were the most common type of corporate involvement in atrocity crime in your data, 87% of all corporations in the data were involved in this type of atrocity crime, which is really high.



Jenn Tostlebe 45:24

It seems very high.



Jose Sanchez 45:25

At least I thought it was. Can you describe some of the types of crimes that fit under this crime against humanity, sort of banner, and how common are some of these crimes in the 103 cases that were in your data at the time?



Wim Huisman 45:41

Yeah, then I have to refer to some statistics from the analysis. So it was 87%, I think of the cases the crimes that would qualify as crimes against humanity. But if you look at the definition of those atrocity crimes, those international crimes, for instance, in the Rome Statute, these are very broad. They're like categories of crimes, indeed, this actually look at crimes against humanity, this could be many forms of underlying crime, you could say. So it could be murder. So unlawful killing of civilians, for instance. It could be torture, it could be enslavement, it could be deportation of the forcible transfer of population, imprisonment or other forms of severe deprivation of physical liberty, and so on, and even the crime of apartheid belongs to this category of crimes against humanity. If you look at the cases that we looked when corporations are accused of being involved in crimes against humanity, what type of crimes would that be? And I think most prevalent, let me have a look at my table, I think most prevalent number one is murder. So corporations being accused in the killing of civilians. To give just one example, oil companies operating in Africa, all production comes with environmental pollution. So for instance, in Nigeria, the country is Nigeria, in Western Africa, there have been uprisings protests by local people, the people living in the Niger Delta, against the environmental pollution. Well, the corporations, this was a nuisance to the corporation. So they asked their local rulers and police, there's a special police force in Nigeria, with the sole task of protecting the interests and facilities of the oil companies. It's the best paid unit of the nigerian police force. And they have a nickname with the local population, because of the way they operate. And the nickname is Kill and Go. So in the interest of those corporations, these state agents, the security forces, they kill people, kill people that are involved in these protests, so and then this case would be qualified as a corporation being involved in the murder of those people. But I think second is torture. And I gave the example of Abu Ghraib prison and abuses, committed by employees of companies being involved in those abuses.



Jenn Tostlebe 47:56

These things do not seem like activities corporations would want to be involved in. But I mean, there must be some kind of profit. Is it just all like money that, they're trying to get more and more money, and they just happen to become involved in atrocity crimes?



Wim Huisman 48:12

Well, I think that's typical for corporate crime.



Jenn Tostlebe 48:14

Yeah, okay.



Wim Huisman 48:14

In a way, it all boils down to money, you could say, but it's not always pure profit maximization as the motive to

become involved because indeed, a reputable business company would not want to be associated with crime in general, including fraud or corruption, but especially not something evil as war crimes or crimes against humanity, murder, and so on. So in the majority of cases, we see indirect forms of involvement. It's quite rare that corporate agents, personnel of corporations is directly being involved doing the killing or doing the torture. The rare example I just gave with Abu Ghraib prison, for instance. Although when working conditions good qualify as enslavement, then, of course, that's also a form of direct perpetratorship by the corporation, but but in most cases, they're indirectly involved. Somebody else is doing the killing, doing the torture. And corporations are, for instance, facilitating those crimes. And it isn't always about the money. And in a way, I often make a distinction between two types of situations I see in the cases. Sometimes, the company being involved is the result of a lack of due diligence, human rights due diligence, proper risk assessments. That may be the result of greed, it's also attractive - new copper field is found in a certain country. And then there's competition and well, the companies are eager to go there and start operating. And then they're not too critical with whoever is ruling the area which the copper field is located. So that's one type of explanation. Another one for instance, Shell in Nigeria, Shell, one of the big oil companies (Britain), has been accused of being involved in these types of crimes in Nigeria. Well, Shell started operating in Nigeria in the 1950s, when it was still a British colony. But Nigeria has changed around them. But they were already there. They did not go in to profit. But they were already the country and the political conditions change. And then the question is, when do we leave, and also leave and say goodbye to all the investments that we made? So in both cases, it has something to do with money and profit, but in different ways.



Jenn Tostlebe 50:28

Okay. All right. Well, shall we kind of shift to our last kind of quick mini topic then. So here we're shifting the discussion, taking advantage of the fact that we have a guest on here who's from the Netherlands. And we just want to get a sense of how the Netherlands kind of compares to the United States on a very basic level in terms of crime and policy. So our first out of two questions for you is, are delinquency rates in the United States similar to those in the Netherlands?

W

Wim Huisman 51:07

Yeah, they differ. They differ, I'm hesitating a bit because of what we have in common is that we're Western developed nations. So perhaps we're more alike when we compare ourselves to other types of nations. But if you just compare crime rates in the Netherlands to the US, it's different. If you look, of course, in criminology, we teach there are two ways to measure crime, on the one hand reported crime police statistics and the other hand surveys, victimization surveys. Well, if you look at crime rates, according to reported crime, and of course, you should present those figures in a way that you can compare. So not absolute figures, because Netherlands is much more, we only have like 60 million inhabitants. But if you look at the number of reported crimes per 100,000 inhabitants in 2019, for the US, that was like 47 reported crimes per 100,000. And in the Netherlands, it's 27. But what both countries have in common, and that goes for all Western developed nations is that crime rates have been dropping since like 2002/2005. That's similar, but still, the crime rate is higher in the US, if you look at reported crime.

W

Wim Huisman 52:19

If you look at crime surveys, well, that's a bit of a sad story. We had a very interesting instruments international crime and victim survey, but there were several rounds, it started in the 90s. I think the last one was in 2010, maybe, but after that, we did not have a new round of the international crime and victim survey, making it hard to make a comparison. But if you look at the 2000 data, I had a peek yesterday, the interesting thing is they make categories. And then the Netherlands were part of the group of countries of which over 24% of the respondents reported being victimized by crime, while the United States together with for instance, Canada and Scotland and France belongs to

the group in which between 20 and 24% of respondents reported being victimized by crime. I think it would be a bit different, perhaps maybe today, because the crime drop started earlier in the United States than than in the Netherlands. And, of course, our most common form of property crime is bike theft. So if you take out bike theft, I think crime rates are not that high in the Netherlands. So if you ever been in analysis, you know, we bike a lot. So a lot of bikes are stolen, but it's not a very serious form of crime.



Jenn Tostlebe 53:43

Isn't it common for at least in Amsterdam for like college students to take bikes and throw them into like the river and canals and whatnot?



Wim Huisman 53:52

Into the canals? Yeah. Well, actually, it changed a bit. But when I was a student in Amsterdam, you were used to the fact that your bike would be stolen all the time.



Jenn Tostlebe 54:03

Okay



Wim Huisman 54:04

And they would be stolen by junkies, drug addicts. And you would go to the law faculty of the University of Amsterdam. We have two universities, I'm at the other one, but the University of Amsterdam in the city center near the red light district. There would be a line of junkies on the street with stolen bikes, and then for like, 10 euros, you would buy a bike? Of course, that's a crime by itself. Right.



Jenn Tostlebe 54:28

Right.




Wim Huisman 54:28


Used to be very common, but that change. So I don't think my students nowadays buy stolen bikes.





Jose Sanchez 54:38


Okay, so our last question for you is about incarceration. So, the United States currently has an incarceration rate of 698 per 100,000. At the end of 2019, when we focus only on prisons, the total prison population was just over 1.4 million people. And so it's I don't know how common knowledge is, but if you look at some of the reporting it'll usually say that the US locks up more people per capita than any other nation. How does the Netherlands compare to the US in terms of incarceration?


 Wim Huisman 55:17
We have 54 per 100,000.


 Jenn Tostlebe 55:20
That's such a difference!

 Wim Huisman 55:22
That's quite a difference, right? Yeah.

 Jenn Tostlebe 55:24
Yeah.

 Wim Huisman 55:25
Yeah. Yeah, actually, we often we're the opposite example. American criminology, also because of the language, of course, is quite dominant. So my students will be studying American textbooks in criminology, and they will learn about crime rates in the States. Often they know more about crime and incarceration rates in the States than then in the Netherlands. But this is a well known example that the US has such a unique high incarceration rate, perhaps the highest in the world. Often the Netherlands is used as an example of the opposite. In Europe, now we're the third lowest I think, and we have always been low, because we have a very mild penal climate in the Netherlands. And well, that's interesting for cultural comparison. Why? Why do punitive culture differ so much between two, at first instance, comparable countries? Western developed nations? Yeah.

 Jose Sanchez 56:21
Yeah. Wow, I was not expecting the difference to be, what is it like 11 times lower?

 Wim Huisman 56:28
Yeah. Yeah, I think that there are a couple of explanations. If you look at the prison population, half of that population is serving a one month sentence. So those are really short sentences, also. One month half of them. We have more out of court sentencing, especially in the last decades, especially fines. We have more alternatives to prison sentences, especially community service. And the latest development is more court ordered mediation, like restorative justice. And those are the explanations that have been given for the low rates of incarceration in the Netherlands nowadays.

 Jose Sanchez 57:08
Very interesting.



Jenn Tostlebe 57:09

Need to learn something from the Netherlands, I guess.



Wim Huisman 57:13

Well come over. I'll take you on a tour to a Dutch prison.



Jenn Tostlebe 57:19

That'd be cool.



Wim Huisman 57:19

Dutch prisons also look a bit different, I think, from American prisons. But that's only because I know about the American prison system because of the movies.



Jenn Tostlebe 57:27

Yeah. Alright. Well, is there anything else that you'd like to share with us? Or any other comments on you know, corporate crime, white collar crime, or crime in the Netherlands?



Wim Huisman 57:41

Not really, you came up with a lot, and very good questions. So it was a really a pleasure to answer them and to elaborate a bit. So yeah, a crash course, I would say on white collar crime. Those are also the topics that that I discussed in my white collar crime course. But that would be the same, I think, in a white collar crime course in an American University. So I think we covered most of the stuff that I would like to cover.



Wim Huisman 58:08

Yeah. And we'll find out soon, because we are actually talking to Sally Simpson in a few weeks. So we'll be sure to ask her some of these white collar crime questions.



Wim Huisman 58:22

Yeah, what we what we did not discussed, we could have discussed it, but then this is a reason also to leave this for Sally, because one of the questions that we actually did not discuss were the offender characteristics, and especially in the role of gender is a very interesting topic. So you've probably heard of the glass ceiling. And that's changing, I think, in the United States in America, but also in Europe. Also, as a result of the 2008 credit crash, which was economic crisis, which was look at the great movie, The Big Short, was attributed to masculine risk taking cultures in financial industry. Many European countries, and I'm not sure about the States, adopted new legislation, making it

mandatory to have a certain quota of female board members, like 40% of the board of large corporations should be female. And the idea is that will break and change masculine business culture, which leads to taking excessive risks, which leads to economic crisis, and so on. Well, the big question is, of course, what will happen with white collar crime when we have more female business managers. There are two hypothesis one is the exposure hypothesis. Once women get exposed to the same types of criminogenic conditions as male business managers, they will start committing white collar crime as well. And the other is the vulnerability hypothesis. No, women are different. And if we have a female business managers, we will have less white collar crime. And this is something that Sally is studying. And not much research has been done, but I would place my money on the second option.



Jenn Tostlebe 1:00:00

Yeah.



Jose Sanchez 1:00:01

We'll be sure to ask that question. Because Yeah, that's definitely interesting.



Jenn Tostlebe 1:00:05

And to know what she thinks as well, as far as the hypotheses. Yeah.



Jose Sanchez 1:00:09

yeah. Well, thank you very much for joining us today, Wim. It was an absolute pleasure to speak with you. And I know we talked about your chapter that's coming out in a few months in late January. But is there anything else that you'd like to plug anything else that we should be keeping, be on the lookout for?



Wim Huisman 1:00:27

The only thing perhaps I could refer to, so many textbooks, because here's White Collar Crime by Sutherland, Corporate Crime. But this is the latest that came out European White Collar Crime, by me and a couple of colleagues of the European Working Group. So although there are many similarities, and especially on the general level, which we discussed white collar crime today for this podcast, I think American European white collar crime is alike, but it's also interesting to study the differences. And that's why we came up with this new book.



Jose Sanchez 1:00:58

No, absolutely. I'm all for, you know, cross national comparative work studying the differences with other countries and the United States. Where can people find Wim? Email, Twitter, Google Scholar, that sort of stuff?



Wim Huisman 1:01:14

Well, if you ask me that question, I realized that I'm pretty old fashioned. I'm not very active on social media. By the way, I would not like to support Facebook for reasons that have to do with my topic of study, I guess. So I'm old

fashioned. You can send me an email. And w.huisman AT vu.nl. I'm easy to find. So if anyone would like to get in touch, it is most welcome. I will reply to your email. Right.



Jose Sanchez 1:01:42

Great, well, that's all we have for today. Thank you again. We really enjoyed talking to you about this.



Jenn Tostlebe 1:01:47

Yeah, thank you so much. It was a pleasure. And Nice to meet you as well.



Jose Sanchez 1:01:51

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