Crime, Harm and Responsibility

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We are all guilty of all and for all men before all, and I more than the others.¹

Dostoevsky (Brothers Karamazov)

Introduction

Recent events in the world of banking have brought afresh to our attention a perennial problem in criminology: namely the nature of the criminological object. I have written elsewhere that criminology is paradoxically unable to state the nature of its object until it has completed its study into whatever that object might be (Crewe 2010a). The now famous claim by Michael and Adler (1933), who suggest that crime is no more nor less than that which is defined as such in law, prevents criminology from including in its conception of its object of study those egregious behaviours of, for example, investment bankers, the owners of the Herald of Free Enterprise, the traders of Enron, the owners of the Bhopal chemical plant and so on. That is, concentration on acts that are in contravention of the criminal code precludes study of behaviours which, while legal, clearly cause considerable harm. The workers of Enron, for example, broke no laws when they effectively robbed hospitals of their electricity supply (Elkind & McLean 2003). This has led to calls for criminology to define its object in terms of the magnitude of harm a particular problematic behaviour brings about. This has, by and large, become a call that divides criminology into two relatively secure camps: those for whom crime cannot be defined in any way other than as infraction of the law, and those for whom such an approach is to fail in one’s duty to speak truth to power. However, what follows is not a standard critique of

¹ Quoted from Dostoevsky’s novel ‘Brothers Karamazov’.
what *prima facie* seems to connect criminology with genuine notions of justice. The critique that follows suggests that the 'harm' perspective is guilty of the same flaws as the 'crime' perspective (at least in part). This paper suggests that this critique leaves us asking the question: ‘which acts are worthy of condemnation?’ The study of ethics provides us with this answer by negation in that it provides the answer to the question ‘what is to be done?’ Thus it is apposite for us to turn to ethical accounts in our attempt to identify the proper object of criminological inquiry.

Criminology is fundamentally, ineluctably, bound up with ethics, even vouchsafing those for whom ethics is no more than a back-covering exercise belonging to the design of data collection methods, or those engaged in inculcating best practice in criminal justice practitioners. The assertion that criminology is a science and should thus be value free is, in itself a value-laden statement, and thus the object of ethical inquiry. It says that criminology should eschew all values except those of science and the market (for the market, like science, is also claimed to be value free). But the market and science have *this* value: ‘I have no values’; and such a value must be examined along with other values in our attempts to answer the question: ‘What is to be done?’

Also ineluctably bound up with ethics is the body of thought loosely classified as existentialism, for existentialism is the kind of thought that emerges when the answer to the question ‘what is to be done?’ arises from engagement with the question ‘what is it to be (alongside others in the world)?’ The vast majority of Heidegger’s work, for example, is bound up with the questions of ‘being’ and ‘doing’, where the grounds for our doing rest in our way of being or ‘presencing’ (See Prauss 1999 and Schürman 1990 [1987]). The characteristic concerns of existentialism that have to do with the recognition of the ultimate futility of our actions arise out of the joint consideration of these two questions.

I will begin by outlining some problems with the notion of crime (as identified by ‘black letter law’) as the proper object of criminological study and indicating some ways in which it has been claimed that a ‘harm’ perspective might alleviate those problems. I will indicate some conventional problems with the harm perspective and suggest that an engagement with the study of ethics through the work of existentialists may provide answers to questions concerning the proper object of criminological study. Having identified problems with using a standard existential account as a tool for identifying the criminological object, I engage with the work of existentialist Emmanuel Levinas in a way that further undermines the ‘crime’, ‘harm’, or conventional existential