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(Ent-)Kriminalisierung. Einleitung zum Special Issue

Dieses Special Issue dokumentiert Beiträge, die im am 21. und 22. März 2024 bei der Jahrestagung „(Ent-)Kriminalisierung“ des Netzwerks „Kriminologie in Nordrhein-Westfalen“ in Siegen präsentiert wurden.

Schlagwörter: Diskurs, Kriminalisierung, Praktiken, Prozess, staatliche Instanzen

(De-)Criminalisation. Introduction to the Special Issue

This special issue contains papers presented at the Criminology in North Rhine-Westphalia network's annual conference on "(De-)Criminalisation", held in Siegen on March 21 and 22, 2024.

Keywords: Criminalisation, Discourse, Practices, Process, State authorities

Whether a behaviour is regarded as common, normal, reprehensible, or dangerous depends on the results of a continuous process of categorisation. This categorisation is carried out all the time by all kinds of actors, using various techniques, but can also be driven by politicians or processed by academics. Criminalisation and decriminalisation processes are therefore a permanent fixture in all criminal policy trends – for the public, for law enforcement, and non-governmental organizations, as well as for the criminologist as an observer of society.

The Criminology in North Rhine-Westphalia network therefore took the opportunity to address the topic of "(De-)Criminalisation" in depth at its 5th annual conference on March 21 and 22, 2024, held at the University of Siegen. This special issue contains selected papers from the conference.

The central question is which categories dominate when it comes to ascribing significance to criminality in everyday practices and in the public discourse? And what are the effects? These categories and their effects may be informally institutionalized and may also have an impact on legislative decisions and criminal proceedings. As anti-racism perspectives clearly show, the criminalisation of a particular behaviour is not necessarily based on criminal liability. At the empirical level, this invariably creates the necessity to question the framing that shapes the subject and research field. What are researchers focusing on, and what specific notions are they guided by? Analysing criminalisation and decriminalisation/legalisation processes and unpacking the dialectics of the formative and constructive endeavour means asking how a behaviour becomes the focus of criminal policy and/or security agency and judicial activity.

Which (knowledge) infrastructures do researchers draw on when and how? And do these infrastructures involve e.g. forms of racism, sexism, or moral panic? What is being done to preserve state measures? And, turning the question around to look at deconstruction: What is being done to remove “suspects”, “radicalised individuals”, and convicts from the focus of the security authorities and the judiciary? How are “dangerous people” turned into normal members of society? And what work is needed on which categories to achieve this (Negnal et al., 2024)?

The different perspectives of the actors involved – in the case of criminality, these would include, for instance, police units, social workers, and prison staff – reveal the resistances linked to the appropriation of concepts, and make visible how individual cases are dealt with. Concepts are contested, categories abolished and replaced with others, and this activity is intensified where there is inter-institutional collaboration. When entering other institutions, concepts and models undergo modification; at the same time, they are forced into alignment with institutional orders (cf. Behrends et al., 2014). It is necessary therefore to analyse the dynamics of concepts and how they are established, in particular how the concept of criminality is established and handled.

Seeing which actions are labelled as criminal by which institutions at which times reveals the degree to which criminality and its associated categories are defined by context. At other times and/or in other social contexts, criminality is established by executioners (Nowosadtko, 1994), crime novels (Temelli & Bouchard, 2022), or museums (Laforcade et al., 2022; Siebenmorgen, 1995), as well as by the judiciary and the helping professions (Menzel & Peters, 2024). In all fields of work and at various stages, criminality means something different in social terms – danger, a problem, a disturbance, damage – and is processed differently, although not in complete isolation from the other meanings. Part of the reason for this is that the media facilitates transitions in the processes that establish problem categories, and institutions process them (Stritzel, 2018; Negnal, 2025; Dollinger & Schmidt, 2025). Studying these transformations or the way knowledge travels enables us to draw conclusions about how social order is conceptualised and established (Behrends et al., 2014), about which categories dominate the discourse (Bal, 2002), which collective actors emerge with which contributions (Schetsche 2014), and also how statehood is enmeshed in these processes. At the Center for interdisciplinary Crime Studies¹ in Siegen we analyse these accumulated meanings and shifts in conceptions of crime.

What is striking in criminology is that we tend to direct our attention to notions of deviation and exclusion rather than inclusion and integration, not least because this is where it is supposedly easier to shine a light on power and authority structures. By contrast, notions of legalisation remain underresearched. This raises the question once again of how we as researchers create topics, how we conceptualize the research field, what empirical methods we use, and how we relate to “our topic”? Which data trails do we follow? Which do we ignore?

The complexity increases further if we study not only the processes of criminalisation and legalisation, but also the simultaneous and overlapping effects. This is where intersectional approaches provide a useful handle for analysis.

We address this in our paper on “Hyperfemininity: Figures of social differentiation and marginalisation in the criminal justice system”, in which we analyse material from an ethnographic study in a German-speaking penal institution for girls and women. The concept of hyperfemininity allows us to engage with a form of gender-specific othering and to highlight

¹ <https://www.uni-siegen.de/bak/crimestudies/index.html.en?lang=en>

the way in which different dimensions of discrimination are interwoven. We demonstrate this using femininity constructs that are hegemonic in discourse and continually reconstructed in everyday prison life: the provocative seductress, the hard worker, and the absent mother are exaggerated discourse figures that prison staff and inmates make use of to assign roles and uphold the local order of exclusionary measures.

Another form of potential discrimination in the criminal justice system is addressed by Julian Knoop and Christine Morgenstern in their paper. They focus on how inmates avail themselves of their rights in cases of conflict within this “closed microcosm”. They start from a broad interpretation of criminalisation processes (as defined by Lacey, 2009) that goes beyond penal intervention. Even the appropriate title – “Accessing the law in prison is not a crime, is it?” – points to the difference between normative legal assessments and processes of criminalisation experienced within the justice system, often in the form of informal discrimination, that can have noticeable consequences for prisoners. The empirical material provides many striking “good reasons” for prisoners to “voluntarily” abstain from asserting their rights.

In their paper on forced labour, Benedict Kreuels and Sanna Kruse-Becher highlight the ambivalent aspects of how an offence committed by a state is dealt with. Taking the example of the cotton harvest in Uzbekistan, one of Central Asia’s top cotton producers, they raise questions about (de-)criminalisation, including in relation to market mechanisms. The sector, which has seen several national reforms, is characterized by repressive tendencies and patterns of structural exploitation, especially child labour and forced labour. It was only in 2013, following an official complaint to the World Bank, that the International Labor Organization (ILO) was tasked with monitoring the cotton harvest. Since then, it has regularly documented changes in its monitoring reports. In their qualitative study of these documents, the authors investigate the question of how an international institution can develop a cooperative relationship with an alleged “offender” when tackling a state crime. The paper reveals the narrative developed by corporate actors and highlights the benefit of targeted communicative neutralisation techniques. The established trust-based collaboration between the actors improves the labour conditions of cotton harvesters, while also enabling the Uzbek government to cover up other human rights violations. The paper shows that criminalisation and decriminalisation processes do not necessarily have to be consecutive but can occur simultaneously. Empirical criminology research must keep sight of these multiple states of play, detours, and diversions within criminality.

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