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CRIMINOLOGICAL THEORY AND STATE CRIME: HOW FAR CAN IT GO?

TEORÍA CRIMINOLÓGICA Y CRÍMENES DE ESTADO: ¿CUÁN LEJOS SE PUEDE LLEGAR?

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ABSTRACT

Understanding and analyzing state crimes, in all their various forms (e.g., state-corporate crime, crimes of globalization, international crimes, supranational crimes, and political crimes), present challenges for criminologists, jurists, and socio-legal scholars. This is especially the case when trying to apply criminological theory. One should, however, first consider the purpose of theory. For example whether a theory for crimes of the state can or should be parsimonious, falsifiable, or quantifiable are factors that impact the development and acceptance of a theory for crimes of the state. This article discusses these issues and their impact on theoretical development for the field and suggests that any efforts to develop a theory for crimes of the state must recognize the interdependent nature of reality and their complexities. Given this, an overview of criminological theories that have been applied to certain components of state crime is offered followed by an integrated theoretical framework that can be applied to the various forms of state crime.

Key words: state crime; international crime; criminological theory; integrated theory; system criminality; interdisciplinary; power; discourse.

RESUMEN

Entender y analizar los crímenes de Estado, en todas sus formas (crímenes estatal -corporativos, crímenes de la globalización, crímenes internacionales, crímenes supranacionales y crímenes políticos) implica un desafío para criminólogos, juristas y académicos de la sociología jurídica. Esto sucede especialmente cuando se intenta aplicar la teoría criminológica. De todos modos, en primer lugar uno debería tener en cuenta el propósito de la teoría. Por ejemplo, si la teoría sobre crímenes de Estado puede o debería ser parsimoniosa, falsable o cuantificable, son factores que impactan en el desarrollo y en la aceptación de una teoría sobre crímenes de estado. Este artículo discute estas cuestiones y su impacto en el desarrollo teórico del campo y sugiere que cualquier esfuerzo para desarrollar una teoría sobre crímenes de Estado debe reconocer la naturaleza interdependiente de

las realidades y sus complejidades. De esa forma, se presenta una reseña de las teorías criminológicas que han sido aplicadas al crimen de Estado ofreciendo aquí un marco teórico integrado que pueda ser aplicado a las diversas formas de crímenes de Estado.

Palabras clave: crímenes de Estado; crímenes internacionales; teoría criminológica; teoría integrada; criminalidad sistémica; interdisciplinariedad; poder, discurso.

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Introduction

Although many traditional criminological theories contribute to some understanding of juvenile delinquency, robbery, burglary, and other conventional domestic criminal activities, standing alone, or as individual theories, they have serious shortcomings and are only able to explain a small portion of variance (Agnew 2012; Weisburd & Piquero 2008; Rothe 2009). Additionally, criminological inquiry has, for the most part, produced theories addressing one specific level of analysis (e.g., interactional/individual, meso or community, and/or structural level). Utilizing theories that explain only the individual level processes or even that of organizations or the broader structure are bound to overlook the interdependent nature of reality. Likewise, more often than not, the underlying assumptions of these theories are left unaddressed, regardless of their impact on theory generation. Perhaps more importantly, there remains a divide within criminology of what theory actually is and what it should accomplish (Agnew 2012). Given this, we are left with the questions: 1) what is the purpose of theory and 2) given the weaknesses noted above, can any criminological theories be applied to crimes of the state?

I suggest that we should not reinvent the wheel. Instead, we need to recognize the value of previous theoretical contributions that do exist. With this in mind, any initiatives aimed at providing an explanation of crimes of state should begin with a sense of humility as the world we live in is so endlessly complex, with countless different variables interacting on multiple different levels, making full-fledged explanation and prediction tremendously difficult. Given this, an interdisciplinary integrated theory for state criminality and the various impacts of international justice responses (e.g., deterrence and legitimacy) on crime commission is offered. It contains both breadth and depth: melding criminological theories, diverse contexts of state power, the myriad forms of state crime, and the impact of various international criminal justice responses, in an interdisciplinary fashion. Prior to exploring the value of criminological theory for an integrated theory, a brief overview of what constitutes a state crime is offered followed by a discussion to clarify what, for the purposes of this article, theory is and what it is meant to accomplish. An overview of theoretical integration is then provided.

State Crime

As this journal is a special issue examining state crime, it seems prudent to provide a brief overview of what this author defines as “state” and “state crime”. After all, the growing inter-relationships between the state, international organizations, transnational corporations, the mass media, and

globalization generates a situation where the interplay and reinforcement of these processes in multiple institutions create profound implications for defining states and more specifically, state crime. Moreover, as the state has been reified to the point of it being a seemingly natural institution, social scientists in general, and criminologists more specifically, often analyze the state without ever providing a clear definition of the concept. Within criminology, the term “state crime” has now been widely accepted. But what do we mean by the term state? Are we really talking about a “state” or a “government”? Is there a difference or are we meaning the same thing? In the broadest sense, of course, a state refers to a defined territory that encompasses a population and a wide range of political apparatus, from the city employee to prisons to a president. In this broad application, the term state can include a city waste employee, a single President or Prime Minister to multi-agencies such as the United States Central Intelligence Agency. In a more strict sense, a “state” is recognized as a sovereign defined territory with a population that are under the control of a governmental apparatus that has the capacity to engage in formal relations with other states. The term “government” is more restrictive to refer to a specific political apparatus within a territory. Additionally, a state and a government must be seen as legitimate by the international political community and the citizens within, though these are not exclusive: a regime can be viewed as legitimate but not the state (e.g., the Hamas regime in Gaza, Palestine) or a state can be viewed as legitimate but not the regime (e.g., the recent example of President Mohamed Morsi, Egypt).

I should note that my goal is not to partake in the centuries old debate of what constitutes a “state” or its role. Rather, given the restrictions of space, I draw on the body of state crime literature that recognizes that the use of the term, “state” -often interchanged with government crime or some forms of political crime-represents the actor (s) within the political apparatus that are entrusted with the power and legitimacy of a specifically defined territory and population to govern that are acting in the name of or on behalf of the state (Rothe 2009). Likewise, many scholars of state crime, including this author, interchange the term “state” for the specific administrations and agencies (actors within them) that compose the political apparatus. In a general sense, state crime scholars accept the view that “state crime” is an action (s) that violate domestic, international public law or cause serious social and personal harm through acts of omission or commission.

There is abundance of literature on state crime with cases varying from genocide, war crimes, crimes of aggression, illegal use of unmanned aerial vehicles, to racial segregation, immigration policies, and lack of social support systems for the most vulnerable populations. Given the definition noted above, state crime research has included social harms, violations of a body of law, acts of omission of its duty, to violations of human rights. Explanatory attempts date back to one of the first theoretical frames to address state-corporate crimes and will be discussed more fully in the following sections (Kauzlarich and Kramer 1998; Kramer and Michalowski 1990). Prior to delving further into the issue of criminological theories’ relevance to state crime, the following section addresses the purpose and potential forms of theory.

Theory: Its Purpose and Form

Theory can be thought of as a set of logically related concepts that can explain a phenomenon. An alternative view is that theory is a set of logically related postulates-propositions-hypotheses that can be empirically tested and falsified, and that is capable of being predictive (Lynch et. al. 2013). The latter is a strict use of the scientific and positivistic interpretation of theory, believing without the ability to empirically-statistically test or try to falsify, it has no validity or scientific value. Yet, as Bernard (1990, p. 327) argued, falsification of criminological theories failed insofar as “...no theoretical approach to crime has ever been falsified in the history of criminology.” Theory that is

'testable'-generally understood by orthodox criminologists as quantifiably tested by a sophisticated statistical program - has come to dominate the field and is believed to be 'the' proper form: making it falsifiable and parsimonious. However, this assumes a level of simplicity of human nature, and for crimes of the state, a minimalistic means to address the intertwining of a host of factors that explain the phenomenon. After all, humans, or organizations such as the state, cannot be understood in terms of natural scientific theories that are used to explain the behavior of an atom or molecule. Parsimonious, simplistic theories and positivist methodologies are unable to capture the complexities of systems and connections between these and the crime they produce: reducing complex human nature to a few measurable variables. Simply, when a theoretical model for state criminality is compared to the operation of natural laws, the influences of a greater number of variables are ignored that perhaps relate to one another in a stochastic rather than deterministic way. In light of this, a theoretical model for state crime, I argue, should consider the complexities of the system and intertwinement of factors from the structural to the interactional level where agency should not be reduced. Further, focusing more on the explanatory power, rather than the traditions of orthodox criminologists' means of testing and theory falsification, is of more relevance, from my perspective, for a theory of state criminality. As Karl Popper (1959) argued, though something is not falsifiable- or scientific as understood by positivistic epistemologies-it does not negate its truth, soundness or validity.

Criminological theories apply to different levels of analysis. Each of these can be thought of as operating along a continuum from the individual or interactional level of analysis to the macro structural level. The distinction between these various levels of analysis is relevant to the type of crimes being analyzed as well as the theoretical model that can be applied. For example, a theoretical approach that explains individual level behavior may have limited explanatory power. As such, theories that explain street crime for example, will need to differ from those that attempt to explain organizational crimes such as corporate or state crime as one cannot analyze an organization's actions through one individual. Utilizing theories that explain only the individual level processes, organizations, controls, or external precipitating conditions, are bound to overlook the intricacies of specific cases. Integration is the most viable path forward for theorizing the types of crimes of states for several reasons. First, to ignore extant theory is to be forced to reinvent the wheel. Such a posture is not only myopic in that it ignores decades of established theorizing and theory testing, but it is arrogant in its rejection of what has come before. Secondly, I begin with the assumption that the intertwinement of factors and complexities of state crimes need a multi-level interdisciplinary approach¹. As Jack Douglas (1977, p. 51) stated, far too often we are guilty of "simplificationism": 'the modern scientists' self-imposed professional myopia, the insistence of each specialist on seeing everything as caused by the few particular variables he happens to 'own' professionally". The following briefly discusses ways to integrate these theories in an effort to produce a more robust criminological explanation of state crime as well as the impact of international criminal justice system on crime commission.

¹ It should be noted that this article is not meant to provide a universal, over-arching, eternal, theory of crime. It is meant to highlight how various criminological theories can have relevance to state criminality in general. Additionally, state crimes vary greatly and as such, drawing attention to the many theoretical concepts and frameworks that have relevance, allows the researcher to include those that are relevant and exclude those that are not. Such an approach is not unique as we see in the social sciences many people draw components of a 'grand' theory such as Marxism and class or Weber and bureaucracy, yet expand on or ignore other components of the theoretical frame. Likewise, the foundational theory of political science and criminology has historically been rational choice. Yet, it is recognized that one cannot explain all criminality through that lens, however, there is no need to throw the baby out with the bath water. Rather, we can use it as it is relevant in terms of street crime, corporate crime, state crime, or crimes of globalization.

Theory Integration

Theory integration can take several forms, it can be specific or general (Cullen & Agnew 2003), propositional or conceptual (Liska, Krohn, & Messner 1989), static or dynamic (Barak 1997). It can combine two or more existing theories, concepts, and/or propositions into one more comprehensive model (Barak 1997; Farnworth 1989) that are closely related, or are considered competing theoretical models (Akers and Sellers 2004). There is also side-by-side integration which involves integrating partial theories to explain a phenomenon or the end-to-end integration that entails shuffling variables from one theory to another making the dependent variable the independent and visa-versa. An up-and-down integration is the development of a 'general' theory that includes multiple propositions from specific theories. Integration can combine single level or multi-level analyses as well as intra-disciplinary or inter-disciplinary critique. Integrated macro-micro theories "focus on both the individual and the structure plus on some kind of interaction between the two" (Barak, 1997, p. 198). The latter approach is taken here for an integrated theory of state crime.

As Wellford (1989) notes, due to the complexity of human behavior and the multi-'causal' factors identified in existing criminological research, a multi-level, multi-disciplinary integration is necessary. This is perhaps even more pertinent to an integrated theory for crimes of the state as "[t]his type of integration places causal significance on both large-scale social forces and individual-level adaptations that result in criminal events" (Rountree, Land, & Miethe, 1994, p. 388). As such, an integrated theory needs to be able to address the relevant explanatory factors from the individual decision-making, the organizational context and its impact, the broader state/structural level, to the international level² where the international criminal justice system's impact or lack thereof of can be revealed. It should recognize the diversity of macro, meso, micro issues: where the totality of the system within which states and non-state actors can be included. In other words, from states to the interrelationships with other states, the international political community, and the international criminal justice system, the concept of a system is of value for recognizing the whole of these relationships and their impact on crime commission. Consider the issue of deterrence, to wit criminology devotes much time. The assumption that international criminal justice or that of another state serves as a deterrent does have some, though very limited support. On the other hand, the International Criminal Court (ICC), while a permanent judicial system, is founded on complementarity, has limited jurisdiction, selective enforcement all of which weakens certainty and perceived legitimacy-both a necessary component for a deterrent effect (this will be more fully discussed in the integrated theory proposed here).

Criminology's Relevance?

As I suggest, we should not reinvent the wheel, rather we should recognize the value some criminological theories can offer to explain state crime. While criminological theoretical engagement with international/state crime is perceived to involve different considerations for explaining and dealing with routine forms of domestic crime, I suggest this need not be the case. For example, from the criminological literature, social learning (e.g., differential association), strain, rational choice, routine activities, techniques of neutralization and anomie theories have been used to address specific components of interactional and organizational offending. Each of these is discussed more

² In this context, the international level refers to the realm where states interact; there is an international political community, international organizations such as the United Nations, international criminal justice systems such as the International Criminal Court, and non-governmental organizations such as the Red Cross. Each of these has an impact or potential impact on state behavior and government actions that extend beyond the sovereign territory of a state.

fully in the following paragraphs and is then given context within the integrated theory proposed here.

Rational choice models are typically associated with the classical school of criminological thought. Cornish and Clarke (1986) developed one version of rational choice theory that assumes offenders act after a rational decision-making process that includes (1) the initial choice to become involved, and then (2) the decision whether to commit a criminal act. The key differentiation to the classical school of thought is the inclusion of bounded rationality. Simply stated, bounded rationality views the decision-making process as influenced by incomplete or inaccurate information. This is due to social factors and individual estimates of perceived costs and benefits (Rothe 2009). In relation to crimes of the state, bounded rationality can be applied at the individual level within the context of a rational bureaucratic organization. As will be discussed below, organizations influence individual decision-making due to the information provided to individual actors, impacting the estimates of the perceived costs and benefits of their action.

Cohen and Felson (1979) further developed the rational choice theory to include choice constrained by opportunity. The elements of routine activities include a motivated offender (a given), suitable targets (opportunity), and capable guardians (operationality of control). This follows Cornish and Clarke's concept of bounded rationality but illuminates the situational factors. While rational choice theory is often viewed as a theory of victimization, Cohen and Felson provided three key catalysts that are indeed relevant to all crime, including crimes of the state and other violators of international criminal law: motivated offender, opportunity, and lack of guardian or control (Rothe 2009). These three catalysts have been used to frame an integrated theoretical approach developed by Kramer, Michalowski, and Kauzlarich (presented in more detail in the following sections). If we accept that bounded rationality can be a factor of individual decision-making within an organizational setting, Routine Activities Theory then highlights the importance of recognizing the need for opportunity for a crime to occur and for a lack of control to constrain or block the actor's decision to act at that specific time. In other words, the organizations and the actors within them must have the opportunity to pursue the policies that result in crimes of the state. While I agree with key postulates of Routine Activities Theory, the elements of a motivated offender, suitable targets (opportunity), and capable guardians (operationality of control), and the concept of bounded rationality that illuminates situational factors. I do not agree that "criminal inclination is a given and . . . [we need to] examine the manner in which the spatio-temporal organization of social activities helps translate their criminal inclinations into action" (Cohen and Felson 1979: 589). Rather, motivation is an essential variable to be explained. The complex psychological, social, and cultural factors (as well as interactions among these factors) that produce motivations are not so easily dismissed. As Almond (1990, p. 1) stated, relying solely on a belief in rational choice "may lead to empirical and normative distortions, unless it is used in combination with the historical, sociological, anthropological, and psychological sciences."

Corresponding with rational choice-bounded rational choice is the assumption of deterrence-often referred to as a theory. If we set aside the broader debate of human nature and accept that humans are rational beings that perform a calculus to avoid pain or cost, there is reason to believe that rational calculus thought is affected by social location (Piquero & Paternoster 1998; Paternoster & Simpson 1992; Stafford & Warr 1993). As criminological research has shown, those in positions with more at stake to risk are more likely to desist and/or refrain from crime. As such, this could then be carried over to assume that some of those actors most likely to be involved in international law violations would seem to be those who are most susceptible to legal sanctions given 'what they have to lose'—social/political position as applied to those in positions of power that are believed to orchestrate the

crimes (Rothe & Mullins 2010). Other factors that have had empirical support for a deterrent effect include certainty and legitimacy of the law, both of which are tied to the most important variable, individual perception. Simply, when offenders do not perceive a punishment as likely to be imposed, then there will be little disincentive toward offending, no matter the celerity or the proportionality of the punishment in question. This relates to both the certainty of being caught and punished as well as the legitimacy of the criminal justice process. If an offender has absolute knowledge that someone else committed the same act and is not 'caught' or punished, there is a disjuncture and certainty is lost. This is especially important at the international criminal justice level as will be discussed more fully in the proposed integrated theory where the current international criminal justice system lacks the potential of a deterrent effect in general given it is not perceived by all as legitimate, has low enforcement mechanisms, and does not apply to all (see Mullins & Rothe 2010; Rothe & Collins 2013; Rothe & Mullins 2010; Rothe and Schoultz 2013a, b). Additionally, when it comes to state crime, as with street crime, we know who was not deterred when caught or state criminal actions are revealed, but we do not know who was deterred. Nonetheless, the international criminal justice system, as with all domestic systems, is grounded in the belief that the rule of law will deter and for those it does not, the system will react, providing further general and specific deterrence. As such, it seems pertinent for any theory of state crime more fully monitor the potential, real or imagined impact of deterrence. The rule of law can be said to only be a general deterrent when the law is viewed favorably by those under its authority and when it is *perceived* at the individual level that there is a certainty of being caught and being held accountable (see Wright & Decker 1994; Shover & Honaker 1992; Shover & Henderson 1995). If, for example, the perceived threat of being caught is strong, the particular law need not be viewed as legitimate. On the other hand, if law is viewed as legitimate, the perception of being caught holds less impact as the internalized belief in legitimacy, which can serve as a self-controlling mechanism. This has been referred to as legitimacy based deference. When both are absent, deterrence holds no effectiveness. Given that the issue of legitimacy is highly relevant for deterrence, and to international criminal law and criminal justice, as both the law and the institutions of social control must be perceived as legitimate, it seems relevant to also consider how components of Differential Association can apply to state crime.

After all, criminological theories, dating back to the 1930s and Edwin Sutherland's Differential Association have long noted that individual definitions of the law as favorable or unfavorable have a bearing on the decision-making processes to offend or not offend. While unfavorable definitions of the law are not referred to as issues of legitimacy by Sutherland, they are one and the same: not viewing a particular law as legitimate is viewing it unfavorably. If one feels a law should not be followed, individuals will not see it as a right and proper restriction of behavior. Research on white collar crime and street crime has shown that the best statistical predictor of deterrence (not committing an action) is the individual belief that legal restriction in question is legitimate and morally valid (Jacobs & Wright 2006). If a combination of law as unfavorable and the *perception* of the risks of being caught and potential punishment are nigh, the impact of general deterrence is negated (Rothe & Mullins 2010; Mullins & Rothe 2010). This has been noted in previous state crime research, where individuals acting in the name of the state are not deterred as they view the International Criminal Court and/or international laws as 'obsolete' or in contradiction to their domestic laws or in violation of a state's right to sovereignty (Michalowski and Kramer 2005).

Sykes and Matza (1957) introduced a model for techniques of neutralization, later expanded on by Matza (1964) when he emphasized that deviant behavior is activated by two impetuses; preparation and desperation and that the feasibility of deviance involves a moral and technical element. The neutralizing techniques include, (1) denial of responsibility, (2) denial of injury, (3) denial of victim, (4) condemnation of the condemner, and (5) appeal to higher authority. These techniques can best be understood in terms of the simple process of rationalizing one's own behavior, whether in response

to cognitive dissonance, as a precondition to acting, or other factors. Such processes can be prior to an act, aiding a cost-benefit analysis, or post-action to minimize a person's behaviors (Rothe 2009). This model can aid in our understanding of the discourse within the organizational setting, negating the impact of decision-making and subsequent policies. Consider how states have denied responsibility, even legitimating their policies for torture, genocide, forced disappearance, corruption, and a host of other crimes.

Learning theories share certain assumptions of human nature and their relation to the social environment within which they exist. The assumption here is that individuals are shaped, and can be reshaped, by specific environments and/or conditions. The process of normal learning generates criminal behavior no different than any other knowledge. As such, the key to these theories is the process of learning and the subsequent content of what is learned. Edwin H. Sutherland (1939; 1948; 1949) is the most well-known criminologist associated with learning theories, and is of course the founder of the criminology of white-collar crime. As noted by Sutherland (1949, p. 300), "Any person can be trained to adopt and follow a pattern of criminal behavior." Through the processes of socialization, individuals learn how to define their environment, favorable or unfavorable attitudes, and specific behaviors (Rothe 2009). This is no different for agents of the state where they learn, through socialization, what is defined as favorable or unfavorable decisions and action. As will be discussed more fully in the integrated theory proposed, state actors even learn to define, through exposure of organizational culture, the legitimacy or lack thereof, of international criminal justice system, domestic laws, and rule and regulations that are a part of their everyday activities. These are guided by the larger organizational culture and ideology.

The concept of anomie is related in many ways to the political economy, yet is also distinct in that cultural goals of organizations need not be tied to economic goal attainment. Emile Durkheim's (1897) classic discussion of anomie argues that it reflects the normlessness associated with rapidly changing societies, wherein traditional norms no longer constrain individuals and new norms are adopted. However, confusion arising out of conflicts between traditional and emerging norms encourages unregulated aspirations and egoism. Again, drawing from Durkheim's work on suicide, the concept of chronic economic anomie with resulting of long term diminution of social regulation is relevant to many crimes of the powerful, including state crime (see Ross & Rothe 2010). In a Mertonian sense, anomie is the result of a high emphasis on goals with low emphasis placed on institutionalized norms to achieve these goals. The social structure has an inherent contradiction between the expected aspirations (cultural goals) and legitimate means to achieve these culturally emphasized goals. Combining these definitions, anomie can be understood as a condition of the larger environment wherein a great emphasis is placed on state goals, but there is a lack of regulation and standardized norms that guide the goal achievement (internally and externally) and in the case of many state crimes, anomic conditions are heightened. The impact of the anomic conditions have been noted in research on private military corporations and state criminality (see Rothe and Ross 2010), though alone, anomie was not sufficient. Merton's (1938) classic structure-strain theory is also of relevance for state actors. According to Merton, strain occurs when attempts to achieve goals and expectations are unattainable, either due to blocked goals or means. Individuals then may respond several ways to this strain: conformity (e.g., accepting the organizational/state goals and directed means of achieving them), innovation (e.g., accepting the organizational/state goals but finding different means of achieving them), ritualism (e.g., not accepting organizational/state goals but following the directed means of achieving them), retreatism (e.g., not accepting or acting to achieve organizational/state goals) and rebellion (e.g., creating an alternative set of goals and means to achieve them). This has been shown to be a factor in many cases of state crime (see Michalowski and Kramer 2006).

Standing alone, I argue, each of the theories reviewed fails to explain state or non-state criminality in whole. However, they offer pieces to the puzzle, giving relevance to integrating these within an interdisciplinary multi-level theoretical frame to aid in our understanding of state crime. As I noted previously, one cannot explain a state invading and occupying another sovereign state (i.e., crime of aggression) by using individual level analysis as the organizational and structural conditions, pressures, and interests would be lost, minimizing the complexities of state behavior and policies. The following section attempts to draw the above noted criminological theories into an interdisciplinary, multi-level integration.

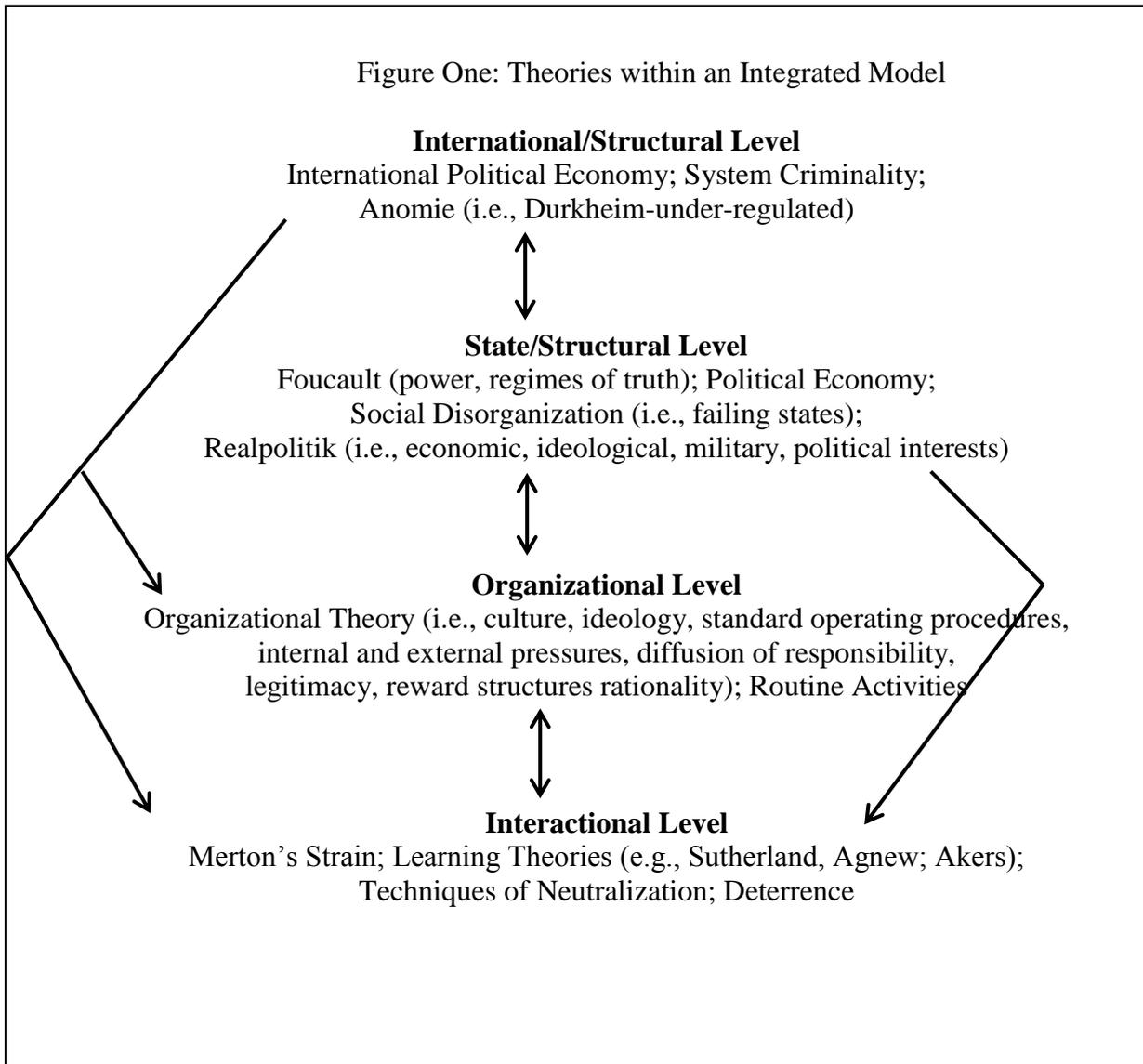
Bridging the Gap

Merging the brief overviews above into an integrated theory is the next step. Matthew Robinson (2004) has identified the principal dimensions or levels that should be part of an integrated theory of crime as: cell (e.g., genes); organ (e.g., a brain injury); organism (e.g., self-control, strain); group (e.g., social learning, differential association); community (e.g., social control, efficacy, network); organization (e.g., labeling, social disorganization); and society (e.g., anomie) (Friedrichs & Rothe 2012; Rothe and Friedrichs 2013). Integrated theories have also been applied to explain organizational offending (Vaughn 1982) including corporate crime (Kramer & Michalowski 1990; Tombs and Whyte 2007) and state-corporate crime (Kauzlarich & Kramer 1998).

Perhaps most relevant to the development of the integrated theory is the theoretical framework by Kauzlarich and Kramer (1998), which built upon earlier work by Kramer and Michalowski (1990) to present an integrated model of state offending that explored motivation, opportunities, and controls at three levels of analysis: the interactional, organizational, and the cultural-structural level. Moreover, their model integrates components of several traditional criminological theories that fall short by themselves in addressing state/corporate crime (Kauzlarich and Kramer 1998; Michalowski and Kramer 2006). For example, Kauzlarich and Kramer utilize anomie and strain, rational choice, differential association, routine activities, political economy, and organizational models. They discuss how motivation is affected by one's socialization within that environment, the social meaning given to his or her behavior, an individual's goals, and issues of personality such as personal morality and obedience to authority. As Kauzlarich and Kramer argue, organizational crime depends on two other factors—availability of illegal means and the social control environment that fosters organizational crime. They also suggest that the primary assumption of that theoretical framework is that the very structure of corporate capitalism provides the impetus toward organizational crime, thus becoming crimes of capital (Michalowski 1985). They further propose that the political economy perspective stresses the shaping and/or constraining influences of the broader historical structure of a society as a factor that shapes organizational behavior. This includes factors such as the culture of competition, economic pressure, and performance emphasis under the catalyst of motivation. Also needed is the availability of legal and illegal means, blocked goals, and access to resources that are included under opportunities. Controls at the structural level are said to include international reactions, political pressure, legal sanctions, media scrutiny, and public opinion.

While this integrated approach works well to explain state corporate crime in a capitalistic setting such as the United States, it fails to address other forms of state crime (e.g., the Rwandan genocide, Egypt's suppression of the Arab Spring Uprising movement, the Lord's Resistance Movement (LRA) in Uganda, or the ongoing violence in Syria). In other words, the integrated approach above comes from a peculiarly Western developed perspective that does not take into consideration other relevant factors at the state or the international levels where the prevailing institutional responses to

state crimes have an impact on the individual decision-making processes (e.g., deterrence, perceived legitimacy of the laws and the institutions) as well as the legitimacy of the institutions themselves (i.e., international criminal justice system where issues of legitimacy are related to case selectivity and the complementarity of the system) as no state operates in a vacuum. Factors such as discourse, power, ideologies (i.e., religion and nationalism) are left out, yet much of the scholarship on state crime, including those of genocide, highlights their importance in crime commission. Having built explicitly on the Kauzlarich and Kramer theoretical framework over the course of the past five years (Rothe 2006, 2009; Rothe & Ross 2010; Rothe & Mullins 2008, 2009), the integrated framework presented here combines insights from criminological theories and other disciplines to explain the multiple levels at play.



Global political, economic, ideological relations and conditions make these crimes more or less likely, providing tensions and contradictions for countries to navigate. The institutional elements and context of a state, its economic, political, cultural, and historical environment, is distinct from and often exhibits forces in contradiction with those elements at the international level. These forces may influence a state's macro-level political or legal structure, but can also exert their own unique influences. Any given state, and the social structure it represents, will be the product of long-term historical contingencies and forces that necessitate an examination of factors more traditionally referred to as macro-level forces. Broader cultural, political, and economic factors in play at a given time and space can, to a greater or lesser extent, produce state crime. Contextualization of these is essential to understand both the idiosyncrasies of an individual event as well as the patterns that emerge in the phenomena as a whole. Moreover, any given crime is a product of multiple catalysts and forces; to fully elucidate a singular occurrence, one must examine a number of factors at multiple levels of analysis. Consequently, this theoretical model recognizes the necessary catalysts of motivation, opportunity, constraints, and controls for four levels of analysis. As such, it contains both breadth and depth: melding criminological theories, diverse contexts of state power, the myriad forms of state crime, and the impact of various international criminal justice responses, in an interdisciplinary fashion.

From sociology, political science, and international relations, other theories need to be considered. The concept of system criminality can aid our understanding of crimes of the state. System criminality has been conceptualized as crimes that are committed by individual actors and organizations that constitute a complex whole with varying levels of participation (Van Der Wilt & Nollkaemper, 2009). This emphasizes the role of the system within which individual actions result in a crime. The term has also been used to describe the systematic means in which a crime is carried out (i.e., crimes against humanity that must constitute massive and systematic acts – crimes that are defined in terms of their systemic nature) or in terms of collective behavior (i.e., collective responsibility). However, if we expand and revise the definition of system criminality, the totality of the system can be included: from states to the interrelationships with other states, the international political community, and even the international criminal justice system that lends to lack of regulation, this concept can be of value. This expands the current use of system criminality beyond a singular state, states, organization(s), or network(s) to recognize the whole of relationships (Rothe & Collins 2011). Unlike organizational theories, system criminality is not bound by the confines of a particular organization (see Vaughn, 2002) or its immediate environment. Similarly, system criminality, as we define it, expands beyond network theories that deal with individual actors, their interactions and how the structure of ties affects relationships, to the collectivities of a broader system (Welman & Burkowitz 1988; Freeman 2004, 2006; Moody & White, 2003). Recognizing the totality of the globalized system also negates the compartmentalizing of actors, organizations, and policies. After all, if the focus is on atomistic organizations or individuals, we would be limiting our concerns and responses to “small cogs in larger systems” (Nollkaemper 2009, p. 2).

Political economy models are useful to explain the driving forces at the state and international levels, in terms of motivation. The earliest version of political economy theory emphasized the relation between the economic system of production with the government and law. This was later revised and expanded to include the international political economy and international relations. The emphasis here, while broadened, remains on the relations between economic systems and politics within and between countries (Underhill 2000). Specifically, the concern is with the ways political forces shape broader systems through economic interactions and how the economy interacts with these political structures (Oatley 2009). What is ignored by international political economy perspectives however, are the factors that go into political decision-making beyond economic concerns or the impact

thereof. This includes ideological and religious interests as well as issues of power-beyond those tied to the economic system, and social/political capital.

The concept and theoretical frame of *realpolitik* expands beyond the dialectic nature of politics and economy to explain state policy in terms of economic, military, political, and ideological interests. This has been used to analyze, from a criminological perspective, state criminality, states' responses to state criminality and states' efforts to control threats to its legitimacy (Kramer & Michalowski 2005; Rothe 2009, 2010; Rothe & Mullins 2010; Rothe & Steinmetz 2013). *Realpolitik* has also been used by scholars in various fields to understand or explain foreign policy and international relations in many countries such as China (Christensen 1996; Xin 2010), Soviet Russia (Kober 1990), Indonesia (Balachandran 2007), and the United States (Rothe 2009). It is a framework that serves as a guide for policymaking and is associated with the school of realism as a political theory of power and neo-realism as an interest-based theory. As noted by Bassiouni (2011, p 17), it is "the despotism of domestic power holders over the vast majority of the populations they control and the exercise of power and hegemony, be it military or economic, by stronger states over weaker ones". *Realpolitik* emphasizes that states' pursue the goals of national security and stability (which includes military, economic, ideological, religious and political interests) regardless of the ethical or moral dubiousness of the means because the benefits of a stable and powerful country are of the utmost importance. Simply, a state grounded in a *realpolitik* philosophy makes decisions guided by bounded rational self-interest rather than by morality and idealism, though at times these can be competing pulls (Anderson 2009; Bassiouni 2006).

It is important to note that within the global system states are situated in, there are power relations. Theoretical models of power, discourse, and regimes of truth, to explain state crimes are also of importance (Rothe, 2010). From a Foucauldian standpoint, states can be said to be one of the sites where hegemonic power is exercised (Rothe 2010; Welch 2008). According to Foucault (1977) power is within and extends beyond states' apparatuses, as do politics. The Foucauldian notion of a 'regime of truth' can serve as a next step to operationalize the authority of 'truth' which undergirds a specific policy a state is enacting (e.g., from genocide to crimes of aggression). The idea of discourse includes a statement of how a problem is defined, followed by the rules guiding the ways it is discussed, and how this then frames the authority of 'truth' about the subject (Foucault, 1980). The 'regime of truth' then guides the practice within the institution for dealing with the subject that is embedded in a system primarily dominated by state interests (Rothe, 2010). With Foucault, it is not the statement of 'truth' that decides about the functionality, acceptance and/or effectiveness of definitorial powers, it is the 'material reality' of a societal 'regime of truth', in this case a state (Foucault 1980, p.131). This 'material reality' can be said to be represented by the interactions of players in particular system. This 'regime of truth' then serves to undergird the operational practice of states and as the political discourse designed to legitimate policies (Rothe, 2010). Further, this truth becomes understood as what Gramsci referred to as 'common sense' or as Giambattista Vico (1948, p. 63) stated, as "judgment without reflection." This then comes to be seen as a generalized way of thinking that becomes dominant in a certain era, reflecting not only what is to be known but also what should and is to be done. Consequentially, while the potential for "genuine debate has to be informed at some level by knowledge" of the origins of problems, this is removed when such discourse does not allow for additional 'truths' (Rosenfeld 2002, p. 5). As will be discussed later, this can be related to the international criminal justice system, where the regime of truth-end of impunity and effectiveness of deterrence, comes to bear on crime commission and brings into question the legitimacy of the system itself.

While no longer applicable to conditions of rapid social change envisioned by Durkheim, the transition from mechanical to organic society, the relevance of anomie understood in these terms can be seen with conditions left by abrupt colonial departures or coups, often dismantling entire sets of socio-political structures. Not only do such events rearrange governmental structures, but the organization of economic ownership and production are reconfigured as well (Mullins & Rothe 2008). Weak institutions produce a vacuum of formal and informal social control. On the other hand, Durkheim and others such as Colvin, Cullen and Vander Vin (2002) have recognized that overregulation can also create criminogenic environments at the state level. For example, history has shown that overregulated states have resulted in terrible atrocities such as the Soviet Gulag system. Further, the vast literature on the Holocaust points to the hyper-centralization of power during the Nazi regime as both motivation and facilitation of the genocide at all levels of analysis. Strain theory is also of relevance. For example, through years of political turmoil and marginalization, some regimes enact alternative means to accomplish political capital. This is evident in some states threatened by or experiencing Arab Spring uprisings, where states responded harshly and repressively to maintain power with the perceived and real threat of loss of legitimacy and power; or colonial powers trying to exert control and legitimacy over indigenous populations, hence turning to more brutal genocidal policies that are not even seen as harmful.

Likewise, sociological organizational analysis plays an important explanatory role (e.g., organizational culture, sub-units, role specialization, and task segregation, reward structures, and goal attainment). Here, the importance of choice and bounded-rationality is widely accepted as parts of organizational analysis given their bureaucratic structure. The realization that situated action—the impact of an environment affects individuals’ decision-making and choices — is at the heart of organizational theories. Simply put, a good man can be brought to ‘evil’ action within certain situations and environments. The individual directions/genesis of contentious policies (bio-determinism to inform Nazi genocide) interplay with rational bureaucratic organization to become a legal embodiment of the individual ruler’s will. There is the recognition that we all become socialized into specific organizational contexts in which we find ourselves. Through “differential association” we learn the expected behaviors and the organizations goals and missions—differential association (Rothe 2009). States have their own “internal cultures, discourses, rationalizations and futures”. This includes the discourse that enables individual actors to neutralize, rationalize their actions and policies (e.g., condemning the condemner, denial of victims or harm). These cultural goals and emphasis can also lead to individual strain when the broader goals and emphasis is blocked and/or without a clear set of means to achieve them. Additionally, as anomie suggests, any organization that operates without any external, and more often than not, internal controls, only increases their opportunity structures to commit crime. When an unrestricted ‘appetite’ for power or even state interests are left unregulated, a criminogenic environment can become the *modus operandi* for the organization, where the means to the end are all that are taken into consideration. Once an organizational culture exists, it becomes institutionalized, making it far more difficult to alter shy of a major institutional shake-up. As organizational theorists point out, there are overarching cultures and goals that remain intact as interchangeable employees and appointees change. However, organizations are neither monolithic entities nor do they operate within a vacuum. While many applications of organizational theory assume a highly bureaucratic institution, a host of state crimes are committed by extremely weak and unorganized regimes that may or may not be committed in conjunction with, or by using militias and paramilitaries, that do not fit into the organizational model conceived by many organizational theorists. The social processes and a broader conception of organizational cultures are essential in understanding these crimes. Further, within certain organizations the presence of a reward structure does not ensure compliance; instead, it creates the very criminogenic tendencies that scholars have believed reduce or control criminality (Mullins & Rothe 2008). A case in point is the reward structure allotted to the Janjaweed by the Sudanese

government, mainly in the form of promised goods from looting, including the livestock of the Darfurians.

There is also a need to include aspects of associational and social learning theories (e.g., Akers 1977; Sutherland, 1939) and core elements of symbolic interactionism and phenomenology (e.g., perceptual aspects and definition of the situation) to understand these phenomena. The idea of learning criminal behaviors through socialization is relevant not only in organizational settings but also in a larger cultural setting. Again, cultural elements discussed above come to bear—both in the broader socio-cultural sense and organizational cultures into which the individual has been socialized. States may inculcate actors into broader ideological beliefs that facilitate violating laws; day-to-day interactions provide ample opportunity for the transmission not only of criminogenic value systems but also of neutralizations to excuse such behaviors. As noted, Akers' (1977) social learning theory is also relevant to the study of state crime at the meso (within organizational theory) and interactional levels. This model is useful combined with Sutherland's Differential Association for providing an understanding of child-soldiers who are forced to commit atrocities, where the process of stimuli presentation—negative and positive—is routinely used to ensure obedience. Child soldiers are often motivated and rewarded with personal praise, social inclusion, drugs, and valuable items. They can also be brutally disciplined, or forced to carry out beatings on their peers as both punishment and conditioning. Further, new child recruits are trained and socialized into the militia by their peers (Rothe 2009).

Finally, I return to the deterrence literature as it has bearing on the claim that anomie is relevant at the international level as well as to Sutherland's Differential Association. Here again, deterrence is an issue of control, to wit criminology devotes much time. The assumption that international criminal justice or that of another state serves as a deterrent does have some, though very limited support. On the other hand, the International Criminal Court (ICC), while a permanent judicial system, is founded on complementarity. The limitation on the Court's jurisdictional powers weakens certainty—a necessary component for a deterrent effect. Consider the cases that are 1) not covered due to jurisdictional limitations, but also 2) the selectivity of cases that result from the complementarity of the Court as well as the discretion of cases selected by the prosecutor and 3) the role of the United Nations Security Council in forwarding specific situations and cases to the Court. Recall that the United Nations Security Council can recommend a case to the Court and authorize the Court's jurisdiction in the matter if neither other jurisdictional conditions apply, as in the case of Sudan and Darfur. Even with the ability of the Security Council to suggest an investigation, parties with veto powers or with strong alliances with such a state, face little risk in their situation being forward to the Court. This reduces the court's ability to deter when state parties and their operatives are not under the court's jurisdiction (Mullins & Rothe 2010; Rothe & Mullins 2010; Rothe & Schoultz 2013). Even when cases are forwarded, such as Sudan, the limited powers of enforcement severely weaken a deterrent effect, directly and through the individual perception that is a needed component for effective deterrence. The inability to apprehend a suspect weakens the Court's credibility, legitimacy, and perceived certainty of capture and punishment. As noted, individual perception is central to a deterrent effect. Given the ongoing resistance to the legitimacy of international criminal law and the Court by several states, insurgency groups, and militaries, the Court is further weakened in its ability to serve as a general deterrent. If we assume the costs of committing these crimes would be greater than the potential benefits, given all contextual considerations, there are other means in which deterrence can be negated at the individual level: through common techniques of neutralization to plausible deniability. Whether neutralization is post-rationalization or as a means of rationalizing irrational behavior, several of the techniques are present within the context of international criminal law violations (Cohen 2001). This includes the condemning the condemner by

denying the legitimacy of the ICC intervention or international criminal law (when claimed a western top down imposition). Likewise, the denial of a victim can be claimed if their actions are believed to be just or in cases where the actions are not viewed as illegal (i.e., cultural context of using child soldiers). This coincides with the denial of injury as well. When ideologies are drawn on, an appeal to higher authority can include religion or even nationalism. Likewise, denial of responsibility is a not only a central element associated with neutralization, but also linked directly to plausible deniability (also as following orders).

The following figure integrates the above theories into a theoretical framework including the core concepts of the theories drawn on here.

Figure Two: An Integrated Theory of State Crime

Routine Activities	Motivation	Opportunity	Constraints	Controls
International Level	Political interests Economic interests Ideological interests (i.e., International Political economy)	International relations System (i.e., Criminality) Complementary legal systems (i.e., Anomie)	International reaction Social movements Political pressure Public opinion	International Criminal Justice System
Macro Level	Structural transformations Economic goals Military goals Political goals (i.e., Realpolitik; Political economy)	Control of information Propaganda Power Ideology/nationalism (i.e., Foucault) Social Disorganization	Political pressure Media scrutiny Public opinion Social Movements	Domestic law
Meso Level (i.e., Organizational Theory)	Organizational culture and goals Authoritarian pressures Reward structures	Communication structures Means availability Role specialization Diffusion of responsibility	Internal oversight Authority structures	Codes of conduct
Micro Level	Strain to Obedience authority Socialization (i.e., Learning Theories) Individual goals and ideologies Definition of the situation (i.e., D.A.)	Techniques of Neutralization Normalization of deviance Group Think	of Personal morality of Socialization (i.e., Learning Theories) Informal social controls	Legitimacy of law i.e., D.A.) Perception of reality of law application (i.e., Deterrence)

For previous versions see Rothe (2009, 2006); Rothe & Mullins (2009, 2008); Mullins & Rothe (2008).

In answer to the question posed, yes, criminological theories have relevance to explain interactional, and organizational level phenomena when appropriately modified. These, however, are very limited in their explanatory power as individual theories, again starting with the assumption that state crimes are diverse and complex, without an interdisciplinary approach that provides theories to explain organizational behavior, politics, foreign and domestic policies and the broader environment within which states' operate (see figure one). Again, the assumption here is not that motivation is a given- thus, even with opportunity and lack of guardian or controls, not all states will act. Agency, as well as the intersection of events-people, and places are all necessary for state crime commission: in other words- recognizing the interdependent nature of all these phenomena-time, space, and agency.

3. Concluding Thoughts

The integrated theory proposed above is indeed complex but it is developed “from empirical generalizations that are based on observations that are both quantitative and qualitative” (Lynch, Long, & Stretsky 2013, p. 105). It offers a set of logically related concepts that can explain state crime and offers insight into the interaction between the crime and the institutional responses we currently have to deal with these problems. While not all of the theories are equally significant in their explanatory powers, each theory included in the integrated models does contribute to our understanding of state crime and prevailing responses to this problem and their impact on crime commission. The whole suggestion of this article is that some criminological theories have explanatory power for state criminality. This is not to say that all criminological theories do or that the ones chosen here that have been substantiated as applicable through over two decades of state crime research are the only ones. In contrast, sociologically grounded theories of organizations, political economy, theories of globalization can also explain components of state crime.

Based on my epistemological assumptions and preference, I argue that models of organizational and individual behavior need to begin with the assumption of complexity, rather than simplicity. This assumption is not only grounded in the scholarly literature on state crime, but reinforced by the practitioners and jurists that investigate and prosecute some of these crimes. To assume a level of simplicity is to be a reductionist and naïve. After all, humans are complex and dynamic (Vila 1996). Consequentially, a theory must “be general enough...it must be ecological, integrative, developmental, and must include micro-level and macro-level explanations” (Vold, Bernard, & Snipes 2002, p. 311). Admittedly, using the dominant positivistic means of assessing falsifiability or testing the theory poses significant challenges. However, this does not negate the value of using this approach to understand and explain state crimes. Likewise, the value of criminological theories can and do contribute to our understanding of state and non-state crime.

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