



**Whither the criminology of crime
vulnerability scanning and studies?**

(A step in June-Dec 2006 evaluation of 'MAVUS' methodology)

15-17 June 2006

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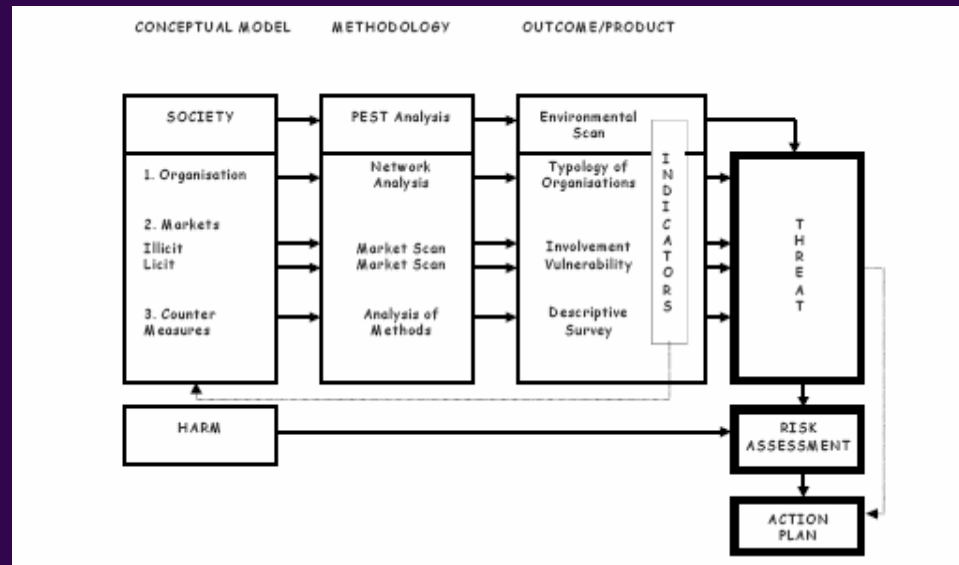
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13 slides follow

What does it mean to evaluate a methodology? Step A.

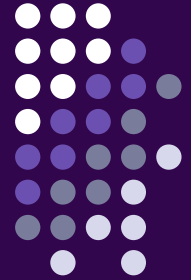
Task, June-December: assist evaluation of MAVUS methodology as deployed by IRCP - Institute for International Research on Criminal Policy, Ghent Univeristy. Diamond sector, music, transport, waste management. What is that methodology?



Possible approach to evaluation:

- A. external: scan for wider criminology & business studies concepts
- B. internal: look at internal coherence of the methodology
- C. standpoints: seek independent reviews & suggestions.

Today: 'A', approached as conflict, consensus, constitutive approaches.
Please tell me if you would like to be involved in C.



Vulnerability studies

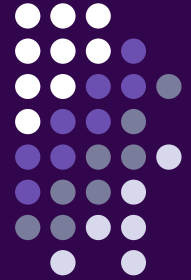
- What?
 - describe **weak** points
 - within **economic** sectors
 - which **might** be exploited by criminals
- Basis: economic data

MAVUS



- Methodology
 - First: information gathering
 - 3 levels
 - Second: analysis
 - Two scans
 - Judging probability of crime occurrence

MAVUS Progress



- Past:
 - Methodology for licit
 - First application
- Present
 - Second application
- Future
 - Evaluation
 - Methodology for illicit

1) Sweet profits: crime as explained by conflict perspectives

Conventional business theory is quite close to some critical criminology. See Porter:

“The five competitive forces -- entry, threat of substitution, bargaining power of buyers, bargaining power of suppliers, and rivalry among current competitors -- reflect the fact that competition in an industry goes well beyond the established players. **Customers, suppliers, substitutes, and potential entrants are all "competitors"** to firms in the industry and may be more or less prominent depending on the particular circumstances. Competition in this broader sense might be termed ***extended rivalry***.” Michael Porter, *Competitive Strategy*, 1998.

What is described is a Hobbsian struggle of all against all. Not surprising in this context that corporate crime exists (even if, historically, business theory has been shy of engaging with the topic).

Such conflict theory taken up, inter alia, in Ghent model of vulnerability of sectors.

The conflict perspective on corporate crime summarised

Criminology

Crime is rational/normal. Structural, economic or value differences underpin conflicts. Firms seek advantage through policy-making.

Business theory

(a) Competitive Strategy = struggles between firms (Porter).

(b) Critical Management Studies (Alvesson & Willmott, eds, 1992) describe struggles: firms/workers, firms/customers. Winners & losers.

Business crime =

Competition between national interests, firms, professions, customers. All seek rule-making in their favour and rule-breaking meanwhile.

Examples: IPR. Finance capital, hedge funds unregulated. Immunity of serving politicians. Enron: stimulated by energy market deregulation ('wrote the rule book') + securities deregulation + climate of 'go get'.

Analytic tools

Analysis of distribution of economic & cultural capital, strategies & alliances; SWOTS to understand competitive positioning & threats.

2) Sweet heart justice: crime as integration failure

Braithwaite: man of the moment!

- **Re-integrative shaming – a positive process, avoiding negative labelling and destructive shaming – expresses disapproval but reconnects the miscreant to the (business in this case) community, in this way (supposedly) reducing future deviance.**

Some practical considerations for crime measurement methods:

Q Most common administrative action is ‘warning’ which, when it is confidential, does not leave a public/researchable record.

Q Alternatively firms may opt to admit illegalities, in return for administrative settlement, which generally will be on the public record.

Q Criminal prosecution rare, because of lack of legal personality in cases of corporate crime, or grave difficulties in proof. Even in terms of individual persons (managers, traders), authorities are reluctant to tack action and courts are lenient.

The integration perspective on corporate crime summarised In criminology

Social integration; consensus-seeking; neo-functionalist. Strong normative aspects. Crime as either functional or as systems strain.

In business theory

Post-capitalist theories of pluralism (eg Peter Drucker). Empowerment, stakeholder analysis, conflict resolution. Everyone a winner. Must work together: OECD, Better Regulation.

Business crime =

Defects in integrative mechanisms – regulations, rules, gatekeeping – being too tight or too loose or too vague → failures in rule-following.

Examples: most cases.

Analytic tools

Stakeholder analysis. Regulatory review. Legislative crime proofing.

QUERY: This perspective stresses need to study negotiated processes as well as dispositions, circumstances. Do EU funded methods do that?

3) Suite deception – the plausible denial of responsibility

Q Some mechanisms of plausible denial

“...there is a natural tendency for “bad news” of any sort not to rise to the top in an organization. A screening process takes place...

- if a company has been touting a new drug, and the drug begins “experiencing difficulties” in the lab, lab employees and their supervisors just “know” that information about this is to be passed upward, if at all, only in the vaguest terms.**
- If an automobile company has retooled and is geared to produce 500,000 units of some car, a test driver or his supervisor knows that [bad] information ...is not going to be welcomed “upstairs”.**
- Worse still, certain sorts of wrongdoing of a more serious sort – for example, price-fixing or other criminal activity – is not just screened out casually; it becomes the job of someone, perhaps the general counsel, to intercept any such information [...] to keep information of wrongdoing away from the very people who might best do something about it.” Punch, CLSC, 2000.**

Q If so, how do currently-developed OC risk/measurement methodologies reflect / examine / 'measure' such processes? (if at all?)

Constitutive perspective on corporate crime summarised

In criminology

Post-Marxist and constructivist theories. Looks at *how action is negotiated and resisted*. Bring back interactionism!

In business theory

Issue: balancing negotiation & structures

Business crime =

Close study of culture & actions in specific settings – looking at how justifications/denials are developed, and responsibility is dissolved by organisational diffusion.

Examples: Herald of Free Enterprise. North Sea oil-rig accidents. Paddington Train Crash. (Might add certain Foreign Intelligence errors?)

Analytic tools

Criteria for responsibility in legal systems (& lawyers' defence strategies, eg Enron). Case studies of communications & responsibility within firms. QUERY: are these approaches taken on by EU projects?

Round-up on perspectives and their methods

Summary. The broad traditions of the social sciences, as reflected both in criminology and in business studies, provide various insights into corporate crime - - -

CONFLICT & HIERARCHY	PLURALISM & INTEGRATION	CONSTRUCTION & NEGOTIATION
<u>Criminology</u> Crime as rational, normal	Means/ends strain, adverse labelling	What may be negotiable
<u>Business studies</u> Pursuing interests	Stakeholder empowerment	Tricky issue: balancing negotiation & structures
<u>→ defining business crime</u> Rule-makers are also the biggest rule-breakers	Defects in social integration / reg.	Diffusing responsibilities
<u>Examples well described:</u> Enron etc	Economic damage due to investigation	‘Accidents’: Chernobyl, Herald, Challenger
<u>Corresponding tools</u> Varieties of SWOT, etc. [Aspects of MAVUS?]	IA, Better Regulation	Case studies.

Conclusion: or rather, the story so far



Methods: where are we strong, where are we weak?

- Business studies tools taken up by enforcement agencies & some academics.
- But anti-terrorist context pushes those methods down, re-iterates 'threat' analyses.
- Policy-makers goggle-eyed for quant data. But most quant = agency activities. Should we stop saying 'measurement'?
- Criminological analysis may yet give its best - critical perspectives on interactions, negotiation of boundaries, and dispersal of responsibility - in narrative presentations.

Acknowledgments –
Ghent University / EC-JLS MAVUS 2006.

Can you assist in evaluation of MAVUS methodology?

Studies available. Choose one report. Give one page review, July or Sept.

VANDER BEKEN, et al, **Kwetsbaarheid voor georganiseerde criminaliteit. Een gevalstudie van de diamantsector**, Academia Press, 2004

BUCQUOYE et al, "**European Road Transport of Goods**", VANDER BEKEN (ed.), Organised Crime and Vulnerability of Sectors. The European Transport and Music Sector, Maklu, Antwerpen-Apeldoorn, 2005, 57-193.

BRUNELLI and VETTORI, "**European music sector**", in VANDER BEKEN (ed.), Organised Crime and Vulnerability of Sectors. The European Transport and Music Sector, Maklu, Antwerpen-Apeldoorn, 2005, 194-308.

On the method itself

VANDER BEKEN, et al, "**Road Map for Vulnerability Studies**", in T. VANDER BEKEN (ed.), Organised Crime and Vulnerability of Sectors. The European Transport and Music Sector, Maklu, Antwerpen-Apeldoorn, 2005, 7-56.