

Why do people engage in state crime? – Some thoughts about criminological theory

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Table of Contents

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|---|--|
| 1. Introduction | 4. A Combination of the Integrated Theory and SAT? |
| 2. The Integrated Theory of International Criminal Law Violations | 5. Conclusion |
| 3. Basic Assumptions of the Situational Action Theory | |

1. Introduction

2 On the international level of criminology, there is an ongoing debate about
3 the state of theory development and the usefulness of current theories. There
4 seems to be a consensus that there are by far too many theories flying around
5 today¹ – a finding that may not be obvious from the perspective of German
6 criminology. But if one takes a closer look at the state of the field in the
7 USA, it seems as if every day a new theory comes into the world. Why is
8 that so? Apart from the fact that having your own theory may add to your
9 scientific credentials, the problem with most classical theories is that they
10 focus on some specific factors and leave out a lot of others that are presumed
11 by other scholars to have an effect on whether or not a person commits a
12 crime. Thus, their explanatory power is inherently limited.

13 Criminological theories are still mainly organised along two lines of argu-
14 ment – broadly speaking. On the individual level, actors are considered as
15 either pathological/pre-destined in some way or as purely rational.² The oth-
16 er discussion is still about if it is either individual factors or those of the so-

1 *Agnew* (2005), p. 1 f.; *Agnew* (2011), p. 1 ff.; *Wikström et al.* (2012), p. 3 ff. This debate is also illustrated by the fact that the 2015 annual conference of the European Society of Criminology dedicated a presidential panel to this problem in which the author participated.

2 See e.g. *Agnew* (2011), p. 1 ff.; *Hopkins Burke* (2014), p. 9 ff.

17 cial environment, although there is a consensus that both levels should be
18 considered.³ Theories that address and even try to integrate several levels of
19 explanation are scarce and the same is true for theories that do not consider
20 the individual's condition in terms of exclusive categories, but rather are
21 open to a more dimensional approach.

22 These problems become most obvious in the study of more complex forms
23 of criminality such as organised and economic crime or state crime and mass
24 atrocities. Micro level theories with their focus on the individual that make
25 valuable contributions to the explanation of easy-to-detect everyday crimi-
26 nality have obvious shortcomings when it comes to explaining criminality in
27 which social dynamics and other mechanisms on the meso and macro level
28 are important. Especially in genocide studies, the focus is mostly on group or
29 societal factors.⁴ This is illustrated by the widespread use of the phrase of
30 'ordinary men in extraordinary circumstances'⁵. Although we as criminolo-
31 gists know that ordinary people commit a lot of crime, this notion transports
32 the idea that ordinary people are 'innocent' and that it is not in their 'nature'
33 to commit crime. Concentrating on meso and macro level factors allows for
34 the emergence of group dynamics, which seem to be almost independent of
35 the individuals who form the group in the first place.⁶ Although quite con-
36 venient for the researcher – the focus on group dynamics leads away from
37 individual responsibility, so there is no need to wonder if one would decide
38 to engage in genocidal activities oneself – this leaves important questions
39 unanswered, such as why some people resist social dynamics that lead to
40 crime.

41 Thus, there still is a need to integrate different levels of explanation⁷ and
42 maybe also different ideas of the human nature. Therefore, I look at two the-
43 ories from state crime research (Integrated Theory of International Criminal
44 Law Violations) and developmental criminology (Situational Action Theo-
45 ry/SAT) respectively and check their potential for combination. Both the In-
46 tegrated Theory and the SAT rely on the assumption that individuals go
47 through a decision-making process that may or may not lead to the decision
48 in a certain situation to commit a crime. They also both take into considera-
49 tion factors of the situation in which the decision is made as well as factors
50 that are more distant from the individual in the situation. However, while the

3 See e.g. *Messner/Rosenfeld* (2013), p. 45 ff.

4 See e.g. *Hagan/Rymond-Richmond* (2008); *Staub* (2014); *Welzer* (2007).

5 Based on *Browning's* (1993) 'Ordinary men'.

6 See e.g. *Welzer* (2007); *Zimbardo* (2007).

7 See also *Messner* (2012), p. 6.

51 Integrated Theory aims at organising all factors – even on the political level
52 – that are relevant in the commission of a crime rather than explaining in de-
53 tail the mechanisms at play between the individual and the situation where a
54 decision is made, the SAT does exactly that. So, the two theories show some
55 potential for combination. Overall, the paper aims at getting further along
56 the way toward a theory for all forms of crime rather than having theories
57 that are developed for certain types of delinquency or that only work for cer-
58 tain types.

59 **2. The Integrated Theory of International Criminal Law** 60 **Violations**

61 The first of these two theories is the Integrated Theory of International Crimi-
62 nal Law Violations. It has been developed and is still developed further by
63 *Dawn Rothe* and others.⁸ The objective is to provide a framework for the
64 analysis for state crime and similar actions by non-state actors such as para-
65 militaries and militias. Therefore, it has to be both complex and general
66 enough to accommodate these forms of crime.

67 The starting point was an analytical framework for state-corporate crime by
68 *Ron Kramer* and *Ray Michalowski* from the early 1990s.⁹ State-corporate
69 crime means collusive behaviour of state agents and private business, which
70 leads to great – not necessarily criminalised – harm.¹⁰ The objective was to
71 provide an analytical scheme that organised relevant concepts from the per-
72 spective of state-corporate crime as organisational deviance. Within the ana-
73 lytical framework, the organisational level of explanation also ‘links the in-
74 ternal structure of specific economic and political units with the external po-
75 litical-economic environment, on the one hand, and with the way in which
76 the work-related thoughts and actions of the individuals who occupy posi-
77 tions in those units are conditioned by the requirements of the positions they
78 hold and by the procedures of the organization, on the other.’¹¹

79 So in brief, *Kramer* and *Michalowski* assume that the group processes and
80 political-economic conditions for crime causation do not just emerge, but

8 See e.g. *Mullins/Rothe* (2008); *Rothe* (2009); *Rothe/Friedrichs* (2015); *Rothe/Mullins* (2009).

9 See *Michalowski/Kramer* (2006), p. 15.

10 *Michalowski/Kramer* (2006), p. 1.

11 *Kramer/Michalowski* (2006), p. 24.

81 that there are individuals at work who form these groups and thus influence
82 group processes and the wider conditions. The levels of analysis are accord-
83 ingly termed ‘institutional environment’, ‘organisational’ and ‘interactional’.
84 On each of these levels, *Kramer* and *Michalowski* identify elements that are
85 related to motivation, opportunity and controls, the three ‘catalysts for ac-
86 tions’. They propose that organisational deviance ‘results from a coincidence
87 or pressure for goal attainment, availability and perceived attractiveness of
88 illegitimate means, and an absence of effective social control’.¹² Thus, the
89 analytical framework is organised in a 3x3 table (see Table 1). It is important
90 to keep in mind that the elements in this framework do not have the same
91 importance in the explanation of each situation, but are considered to be pre-
92 sent and relevant to a certain and varying degree.

93 The Integrated Theory of International Criminal Law Violations (see Ta-
94 ble 2) comprises four catalysts for action on four explanatory levels. These
95 catalysts are motivation, opportunity, constraints and controls with the con-
96 straints consisting of inhibitors before or during the act and the controls
97 meaning mainly legal norms and their application after the act. The explana-
98 tory levels range from micro to international. The micro level is developed
99 from *Kramer* and *Michalowski*’s interactional level with its elements mostly
100 borrowed from *Merton*’s (1938) anomie theory (strain), learning theories,
101 the techniques of neutralisation (*Sykes/Matza* 1957), and deterrence. The
102 meso level relates to *Kramer* and *Michalowski*’s organisational level and
103 comprises elements from organisational theory and routine activities. The
104 macro level is situated on the state level and developed from *Kramer* and
105 *Michalowski*’s institutional environment. The elements here are borrowed
106 from *Foucault* (power, regimes of truth), political economy, social disorgan-
107 isation and ‘Realpolitik’. The international level holds elements from inter-
108 national political economy and system criminality. The elements are not
109 equally important for the explanation of each and every situation, but rather
110 have to be weighed.

12 *Kramer/Michalowski* (2006), p. 24.

111 Table 1: Integrated Theoretical Model of State-Corporate Crime

<i>Levels of Analysis</i>	<i>Catalysts for Action</i>		
	<i>Motivation</i>	<i>Opportunity</i>	<i>Control</i>
<i>Institutional environment</i>	<i>Culture of competition Economic pressure Organisational goals Performance emphasis</i>	<i>Availability of legal means Obstacles and constraints Blocked goal/strain Availability of illegal means Access to resources</i>	<i>International reactions Political pressure Legal sanctions Media scrutiny Public opinion Social movements</i>
<i>Organisational</i>	<i>Corporate culture Operative goals Subunit goals Managerial pressure</i>	<i>Instrumental rationality Internal constraints Defective Standard Operating Procedures Creation of illegal means Role specialisation Task segregation Computer, telecom and networking technologies Normalisation of deviance</i>	<i>Culture of compliance Subcultures of resistance Codes of conduct Reward structure Safety and quality control Communication processes</i>
<i>Interactional</i>	<i>Socialisation Social meaning Individual goals Competitive individualism Material success emphasis</i>	<i>Definitions of situations Perceptions of availability and attractiveness of illegal means</i>	<i>Personal morality Rationalisations and techniques of neutralisation Diffusion of responsibility Separation from consequences Obedience to authority Groupthink</i>

112 Source: Kramer/Michalowski (2006), p. 25.

113 Rothe and Mullins (2009) organised the elements of the Integrated Theory
 114 into a causal model where the catalysts for action serve as nodes around
 115 which the elements are grouped (see Graph 1). This causal model is still
 116 relatively simple. Except for individual motivation and opportunity, all ele-

117 ments are considered to have a combined influence on the decision to offend
 118 and an indirect or direct influence on the actual criminal act. In order to op-
 119 erationalise this for empirical testing, the model needs more sophistication.

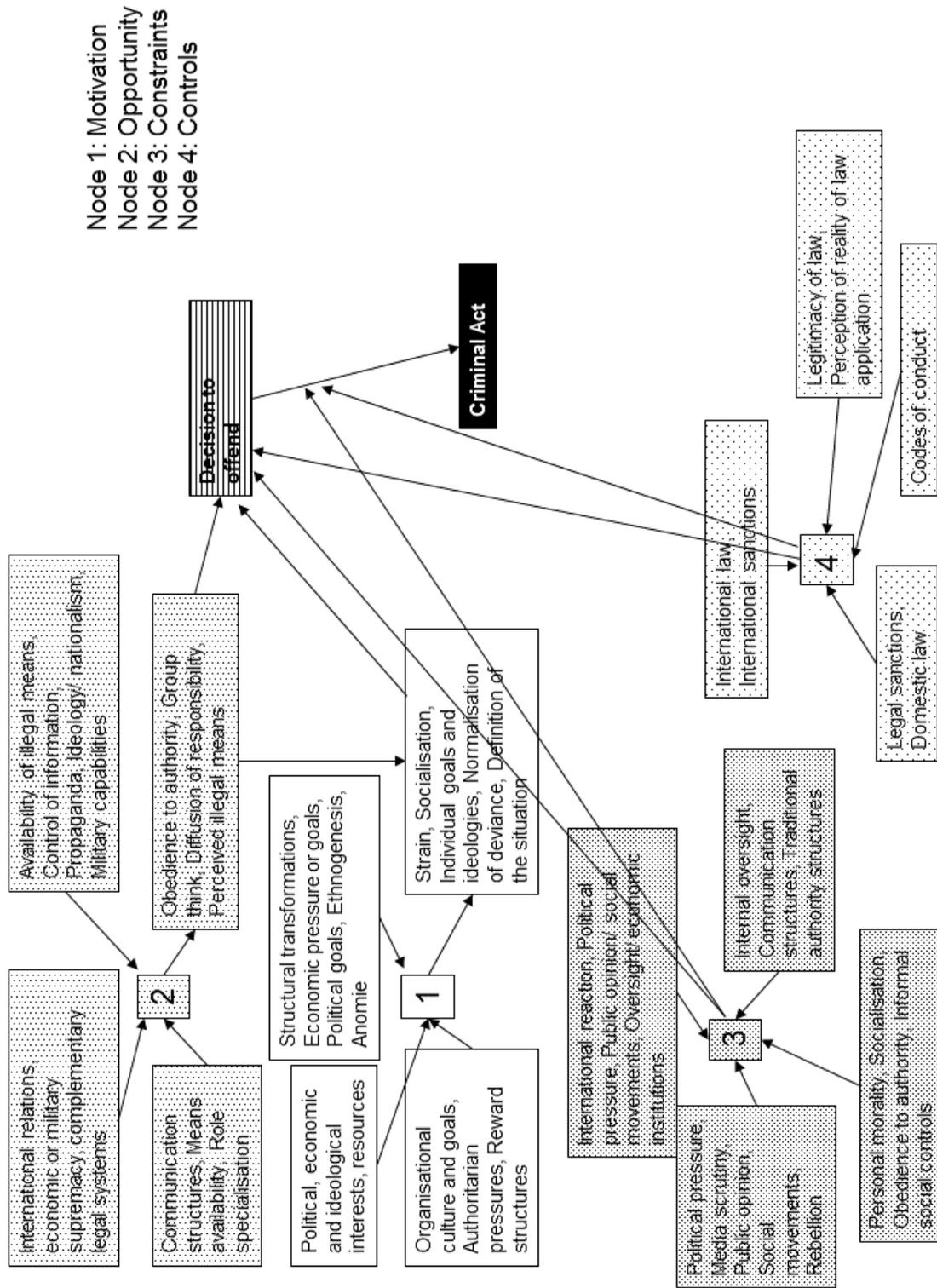
120 *Table 2: Elements of the Integrated Theory of International Law Violations*

	Motivation	Opportunity	Constraints	Controls
Inter-national Level	<i>Political interests Economic interests Resources Ideological interests</i>	<i>International relations Economic supremacy Military supremacy Complementary legal systems</i>	<i>International reaction Political pressure Public opinion Social movements NGOs and INGO Oversight/economic institutions</i>	<i>International law International sanctions</i>
Macro Level	<i>Structural transformations Economic pressure or goals Political goals Ethnogenesis Anomie</i>	<i>Availability of illegal means; Control of information; Propaganda Ideology/nationalism; Military capabilities</i>	<i>Political pressure; Media scrutiny; Public opinion; Social movements; Rebellion</i>	<i>Legal sanctions Domestic law</i>
Meso Level	<i>Organisational culture and goals; Authoritarian pressures; Reward structures</i>	<i>Communication structures; Means availability; Role specialisation</i>	<i>Internal oversight; Communication structures; Traditional authority structures</i>	<i>Codes of conduct</i>
Micro Level	<i>Strain; Socialisation; Individual goals and ideologies; Normalisation of deviance; Definition of the situation</i>	<i>Obedience to authority Group think Diffusion of responsibility Perceived illegal means</i>	<i>Personal morality Socialisation Obedience to authority Informal social controls</i>	<i>Legitimacy of law Perception of reality of law application</i>

121 *Source: Rothe 2009, 102 (permission by the author).*

Why do people engage in state crime?

Graph 1: Causal Logic Model with Elements of the Integrated Theory
 Source: Rothe 2009, 112 (permission by the author).



3. Basic Assumptions of the Situational Action Theory

This article is not the place to explain *PO Wikström's* Situational Action Theory (SAT) in full detail – a brief overview will have to suffice.¹³ The basic idea is that crime is a moral action with the term ‘moral’ describing this action as breaking rules about what is wrong and what is right. The action (crime) is the outcome of a ‘perception-choice process’ that a person with a certain crime propensity undergoes when exposed to a certain setting. Both the propensity and the fact that an individual is finding her/himself in a setting are, according to the SAT, influenced by social conditions and life events which serve in this theory as ‘causes of the causes’.

Immediately before the action, there is the perception-choice process that consists of the person first perceiving which action alternatives are available in the situation and then making the choice which alternative to adopt. If no criminal alternative is perceived, no criminal action will be chosen. The choice can be deliberate and conscious – usually in new situations with which the person does not have prior experience, but will very often be automatic or out of habit because the person has experienced this situation or a similar one before.

Both propensity and exposure influence the perception-choice process. The propensity relates to the individual, to a person’s relevant moral rules and emotions and the ability to exercise self-control. Exposure to a setting describes the direct surroundings and a situation with a certain moral context (moral norms and level of enforcement of these norms) to which a person actually has access and finds her/himself in. Both the person’s moral norms and the moral norms of the setting may or may not be congruent with rules of conduct as stated in the law. How a person will behave in a given setting also depends on three situational factors: motivation (temptation or provocation), the moral filter and controls (self-control or deterrence). The moral filter is the interaction between the person’s moral norms and the norms of the setting and determines what action alternatives a person perceives as a response to a particular motivating factor. If the moral norms of the individual and the setting correspond, the person will most likely perceive action

13 For details see *Wikström et al.* (2012), pp. 11-41; *Wikström/Svensson* (2010); *Wikström/Treiber* (2007); *Wikström/Treiber* (2009); *Wikström/Tseloni/Karlis* (2011); the PADS+ website; in German: *Vetter/Bachmann/Neubacher* (2013).

alternatives that conform with these rules (principle of moral correspondence). It is important to note that the official rules of conduct – the law – do not play any other role in this process than to determine if an action is a crime or not. Only if individual rules and those of the setting do not correspond and the person makes a deliberate choice, controls become relevant (principle of conditional relevance of controls). Self-control as the internal control is defined as a ‘process by which a person succeeds in adhering to a personal moral rule when it conflicts with the moral rules of the setting’. Deterrence as the external control is defined as a ‘process by which the (perceived) enforcement of a setting’s moral norms [...] succeeds in making a person adhere to the moral norms of the setting even though they conflict with his or her personal moral rules’.¹⁴

The individual’s decision-making patterns are not considered to be static, but open to change. This change is considered to be a result of changes in the person’s propensity and/or his or her exposure which would both lead to changes in the perception of action alternatives and ultimately changes in choice. Changes in propensity and exposure are interrelated with changes in exposure influencing propensity through socialisation and habituation while changes in propensity influence exposure by selection of settings.¹⁵

The wider social conditions and life events including socialisation, earlier experiences as well as social and societal conditions that are the focus of many criminological theories only serve as causes of the causes in the framework of the SAT. Therefore, they are not considered to have a direct causal effect on the decision to act. Still, they are very important, because what kinds of people find themselves in what kinds of settings is guided by processes of social and self-selection and what kinds of people and settings are to be found in a jurisdiction is considered as the result of historical processes of personal and social emergence.¹⁶ Self-selection describes people’s choices based on preferences ‘to attend particular time and place-based activities within the constraints of the forces of social selection’ with social selection meaning the ‘social forces [...] that enable [...] or restrict [...] particular kinds of people from taking part in particular kinds of [...] activities’.¹⁷ Personal emergence refers to how people acquire certain qualities

14 Quotes: *Wikström et al.* (2012), p. 26.

15 *Wikström/Treiber* (2009), p. 88.

16 *Wikström et al.* (2012), p. 30 ff.

17 Quotes: *Wikström et al.* (2012), p. 37.

such as crime propensity, social emergence to (relevant) qualities of the environment.

The problem that this theory has in explaining more complex criminality is that it very much focusses on the individual's decision-making process and does not include group processes and dynamics as such in the same way. Still, one key argument of the theory is that 'particular combinations of kinds of people and kinds of settings will tend to create particular kinds of situations that, in turn, will tend to encourage particular kinds of action'.¹⁸

4. A Combination of the Integrated Theory and SAT?

So far we have two theories: one theory that tries to integrate several levels of analysis and a range of key ideas from criminology (and other fields that are relevant in the explanation of state crime) and another theory that focuses on a person's decision-making process that may lead to a criminal action and the key direct influences. While the Integrated Theory seeks to explain complex crimes that may even need years of preparation, the SAT is tested with young persons' deviant behaviour in urban areas and thus behaviour that usually lacks meticulous planning and large-scale impact. While both theories have shortcomings, because of their strengths, it is worthwhile to try to combine them. However, this will not yield a new integrated theory, but the SAT could serve as a transmission mechanism at least between the micro and the meso level of the Integrated Theory and maybe to the macro level as well. Like the catalysts for action on the macro level, those on the international level could be considered as causes of the causes in the terminology of the SAT, but they are very far away from the core of the SAT model. Therefore, they will be left out in the combination.

Even though the two theories seem to be quite different at first glance, there are also commonalities between the models. Both of them take into account the decision to take a certain path of action and both emphasise the importance of norms not only as definitions of criminal acts in written law, but also in the wider sense of social norms that people are confronted with in their everyday lives. Moreover, many of the aspects of the Integrated Theory can be found in key concepts of the SAT. Graph 2 shows which elements of the SAT can be found where in the Integrated Theory. The chart is based on the causal model of the Integrated Theory without the international level.

18 *Wikström et al.* (2012), p. 15.

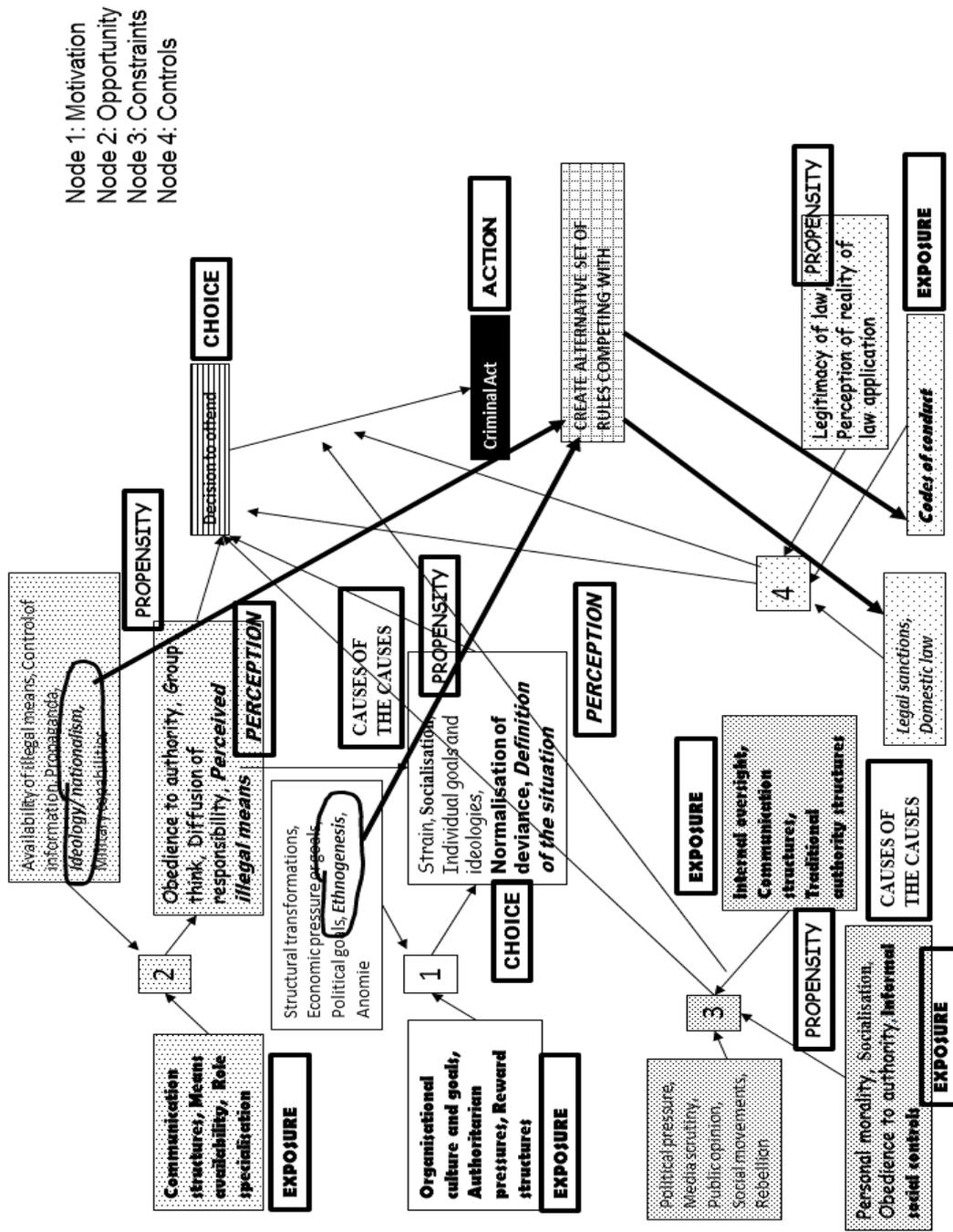
SAT concepts are added in capitals in boxes with a thick frame. The font of SAT concepts and the respective elements of the Integrated Theory matches.

The most obvious similarities are the decision and its outcome:

- the ‘criminal act’ in the Integrated Theory is the ‘action’ of the SAT,
- the ‘decision to offend’ and ‘normalisation of deviance’ matches the ‘choice’ (deliberation, habit).
- Aspects of ‘perception’ are to be found on the micro level of the Integrated Theory as the ‘definition of the situation’ (motivation) and ‘perceived illegal means’ (opportunity).
- As for a person’s ‘propensity’, the Integrated Theory offers ‘individual goals and ideologies’ (motivation), ‘obedience to authority’ and ‘group think’ (influence the ability to exercise self-control, link the individual to the – group – setting) as well as ‘diffusion of responsibility’ (affects deterrence) as aspects of ‘opportunity’, ‘personal morality’ and again ‘obedience’ as constraints, and ‘legitimacy of the law’ (congruence of personal moral rules with the law) and ‘perception of the reality of law application (an aspect of deterrence) as controls.
- Aspects that describe ‘exposure’ would be ‘organisational culture and goals’, ‘authoritarian pressures’ and ‘reward structures’ (all relating to motivation); ‘communication structures’, ‘means availability’ and ‘role specialisation’ that provide ‘opportunity’; ‘informal social controls’ as ‘constraints’ and ‘codes of conducts’ as ‘controls’ that also provide rules for the setting.
- Finally, to highlight one of the ‘causes of the causes’, ‘socialisation’ plays a role for both ‘motivation’ and ‘constraints’ in the Integrated Theory.

The Integrated Theory offers two aspects that are not explicitly used in the SAT, which help to explain the emergence of rules of the situation: ‘ethnogenesis’, the formation of an ethnic group identity, as a motivating factor for harmful acts and ‘ideology/nationalism’ as factors of opportunity. Both can serve as frames and justifications for alternative sets of rules that compete with or override the written law (‘legal sanctions’, ‘domestic law’) and traditional ‘codes of conduct’ for specific situations.¹⁹

¹⁹ See Jäger (1967/1982), p. 186 ff.; Welzer (2007).



Graph 2: Causal Logic Model of the Integrated Theory (without elements of the international level) with key aspects of the SAT

5. Conclusion

This article proposes a combination of an analytical framework from state crime criminology with a theory that explains individual everyday crime. The aim of this endeavour is to promote the development of theoretical explanations of crime that work with complex criminality as well as with simpler forms. As a first step, the article presents the Integrated Theory of International Criminal Law Violations and the Situational Action Theory with their strengths and weaknesses and then translates the aspects that the Integrated Theory proposes into the language of the SAT. This shows that the SAT seems useful for clarification of the interaction of the catalysts for action in the Integrated Theory. The combination or integration of these two theories could lead to a more sophisticated model of the explanation of crime.

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