

The subject of this essay is reflected in its title. The title poses a disagreement with the end result of criminalization and claims the essay as a comprehensive reasoning on the processes of criminalization. The first part of the title “but criminalization is selective” states the essays disagreement with the end result of criminalization and introduces two considerations. These considerations extend one another. One consideration is that the process of criminalization is selective about what that process determines as crime. The second consideration is that the process of criminalization is partial - again selective - with the range of acts/conducts it embraces as crime, and/or would want to accept as crime within its already restrictive determination of crime. Thus, the main purpose of this essay is encapsulated by, and in, the simple question of “what is crime”? The second part of the essays title a comprehensive reasoning offers the essay as a keen examination of the processes of criminalization and attendant shortcomings. The essay explores some literature on prevailing discussions of crime and the practices of criminalization. This exploration brings us to the understanding that the determination of what is crime is restricted to legal formulation and the resultant penal code. Any conduct insofar as it is not within the legal proscription, no matter how abhorrent, is not crime and therefore not subject to criminalization and hence will not attract any punishment. The essay finds that the process of the determination of crime necessarily follows from moral outrage and social indignation founded on the preferences of the representatives of the people elected into the legislature. At times, these so-called representatives of the people are self-imposed and they make law by diktat. Whether appointed into the legislature by election or self-appointed with the barrel of the gun, ‘The People’s’ legislative representatives are invariably oligarchic and the choices they make for ‘The People’ are underwritten by oligarchic preferences. Inevitably, this essay concludes that the proper foundation for the determination of crime should encompass issues of moral imperatives and social norms (customs) – not moral outrage and/or social indignation – important to The People rather than the codifying of oligarchic preferences of The Peoples’ legislative representatives (ushered in by the vote or self-imposed by means including the barrel of the gun and/or the concerted and well-orchestrated calculations of the minority masquerading as the voice of the majority).

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