

Schools of criminology



Ever since the dawn of human civilization, crime has been a baffling problem. There is hardly any society which is not beset with the problem of crime. Dr. Heinrich Oppenheimer in his book ' Rationale of Punishment' says that a crimeless society is a myth. Commenting on this aspect, Emile Durkheim says, “ a society composed of persons with angelic qualities would not be free from violations of the norms of that society”. In fact, crime is a dynamic concept changing with social transformation and evolution of the human society .

Primitive societies did not recognize the distinction between the law of torts and crime but only knew the law of wrongs. The early English societies during 12th and the 13th century included only those acts as crimes which were against the State or religion. As a result, treason, blasphemy and rape were crimes whereas murder was not. Along came the concept of personal revenge, which demanded an eye for an eye and a tooth for a tooth . By the late 17th century, there wasn't even a proper definition for crime. But the 18th century witnessed an era of miraculous reorientation of criminological thinking in European countries especially in France and Italy. The ideas of divine displeasure, demonic forces and other myths were replaced by logical and rational explanations. The twentieth century then saw a considerable increase in crime and with it, the study of criminology.

The study of criminology is an accumulation of centuries of beliefs, ideas, norms and laws of various societies. Because crime is a part of every human society, the study of criminology is also imperative to all societies. In this project report, I will discuss the various schools of thoughts of criminology

starting from the early seventeenth century to the modern day schools of criminological thought.

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It has been generally accepted that a systematic study of criminology was first taken up by the Italian scholar, Cesare Bonesana Marchese de Beccaria who is known as the founder of modern criminology. His greatest contribution to criminology was that he, for the first time, proceeded with the study of criminals on a scientific basis and reached certain conclusions from which definite methods of handling crime and criminals could be worked out .

In an attempt to find a rational explanation of crime, a large number of theories have been propounded. Various factors such as evil spirit, sin, disease, heredity or economic maladjustment etc have been put forward either singly or together to explain criminality. However, some criminologists still tend to lay greater emphasis on physical traits in order to justify exclusive resort to correctional methods for the treatment of offenders.

Various schools of criminology are discussed below.

1)Classical School a)Pre-classical The period of seventeenth and eighteenth century in Europe was dominated by the scholasticism of Saint Thomas Aquinas. The dominance of religion in State activities was the chief characteristic of that time. In political sphere, thinkers such as Hobbes and Locke were concentrating on social contract as the basis of social evolution. The concept of Divine right of king advocating supremacy of monarch was held in great esteem. As scientific knowledge was yet unknown the concept

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of crime was rather vague and obscure. There was a general belief that man by nature is simple and his actions are controlled by some super power. It was generally believed that a man commits crime due to the influence of some external spirit called demon or devil. Thus an offender commits a wrongful act not because of his own free will but due to the influence of some external super power. No attempt was, however, made to probe into the real causes of crime.

This demonological theory of criminality propounded by the exponents of pre-classical school acknowledged the omnipotence of spirit, which they regarded as a great power . The pre-classicals considered crime and criminals as an evidence of the fact that the individual was possessed of devil or demon the only cure for which was testimony of the effectiveness of the spirit. Worships, sacrifices and ordeals by water and fire were usually prescribed to specify the spirit and relieve the victim from its evil influence. An ordeal is an ancient manner of trial in criminal cases. When an offender pleaded not guilty, he might choose whether he would put himself for trial upon God and the country, by men or upon God only, and then it was called ‘ the judgment of God’, presuming that God would deliver the innocent.

Examples of such ordeals are, throwing into fire, throwing into water after tying a stone to his neck, administration of oath by calling up God’ s wrath, trial by battle, etc. Trial by battle was common mode of deciding the fate of criminal. The oaths and ordeals played a very important role in the ancient judicial system in determining the guilt of the offender. The justification advanced for these rituals was the familiar belief that when the human agency fails, recourse to divine means of proof becomes most inevitable.

Though these practices appear to be most irrational and barbarous to the modern mind, they were universally accepted and were in existence in most Christian countries till thirteenth century. The Roman law completely ignored the system of ordeals and it was forbidden in Quran.

The right of society to punish the offender was, however, well recognized. The offender was regarded as an innately depraved person who could be cured only by torture and pain. The evolution of criminal law was yet at a rudimentary stage. Hobbes suggested that fear of punishment at the hands of monarch was a sufficient deterrent for the members of early society to keep them away from sinful acts which were synonymous to crimes. Thus the theosophists, notably St. Thomas Aquinas and the social contract writers such as Donte Alighieri, Machiavelli, Martin Luther and Jean Bodin provided immediate background for Beccaria's classical school at a later stage. The pre-classical thinking, however, withered away with the lapse of time and advancement of knowledge.

b) Classical school The Classical School in criminology is usually a reference to the eighteenth-century work during the Enlightenment by the utilitarian and social contract philosophers Jeremy Bentham and Cesare Beccaria. Their interests lay in the system of criminal justice and penology and, indirectly through the proposition that " man is a calculating animal", in the causes of criminal behaviour. The Classical school of thought was premised on the idea that people have free will in making decisions, and that punishment can be a deterrent for crime, so long as the punishment is proportional, fits the crime, and is carried out promptly.

Beccaria, the pioneer of modern criminology expounded his naturalistic theory of criminality by rejecting the omnipotence of evil spirit. He laid greater emphasis on mental phenomenon of the individual and attributed crime to free will of the individual. Thus he was much influenced by the utilitarian philosophy of his time which placed reliance on hedonism, namely, the — pain and pleasure theory. As Donald Taft rightly put it, this doctrine implied the notion of causation in terms of free choice to commit crime by rational man seeking pleasure and avoiding pain .

Main Reforms Advocated by the Classical School The system of law, its mechanisms of enforcement and the forms of punishment used in the eighteenth century were primitive and inconsistent. Judges were not professionally trained so many of their decisions were unsatisfactory being the product of incompetence, capriciousness, corruption or political manipulation. The use of torture to extract confessions and a wide range of cruel punishments such as whipping, mutilation and public executions were commonplace. A need for legal rationality and fairness was identified and found an audience among the emerging middle classes whose economic interests lay in providing better systems for supporting national and international trade.

- Cesare Beccaria (1738-1794) In 1764, Beccaria published *Dei Deliti e Delle Pene* (“ On Crimes and Punishments”) arguing for the need to reform the criminal justice system by referring not to the harm caused to the victim, but to the harm caused to society. In this, he posited that the greatest deterrent was the certainty of detection: the more swift and certain the punishment, the more effective it would be. It would also allow a less serious punishment

to be effective if shame and an acknowledgement of wrongdoing was a guaranteed response to society's judgment. Thus, the prevention of crime was achieved through a proportional system that was clear and simple to understand, and if the entire nation united in their own defense .

His approach influenced the codification movement which set sentencing tariffs to ensure equality of treatment among offenders. Later, it was acknowledged that not all offenders are alike and greater sentencing discretion was allowed to judges. Thus, punishment works at two levels. Because it punishes individuals, it operates as a specific deterrence to those convicted not to reoffend. But the publicity surrounding the trial and the judgment of society represented by the decision of a jury of peers, offers a general example to the public of the consequences of committing a crime. If they are afraid of similarly swift justice, they will not offend.

- Jeremy Bentham (1748-1832) Bentham devoted his life to developing a scientific approach to the making and breaking of laws. Like Beccaria he was concerned with achieving the greatest happiness of the greatest number. His work was governed by utilitarian principles. Utilitarianism assumes that all human actions are calculated in accordance with their likelihood of bringing happiness (pleasure) or unhappiness (pain). People weigh the probabilities of present future pleasures against those of present and future pain.

The main tenets of classical school of criminology: 1. Man's emergence from the State's religious fanaticism involved the application of his reason as a responsible individual. 2. It is the ' act' of an individual and not his ' intent' which forms the basis for determining criminality within him. In other words,

criminologists are concerned with the act of the criminal rather than his intent. Still, they could never think that there could be something like crime causation. 3. The classical writers accepted punishment as a principal method of infliction of pain, humiliation and disgrace to create 'fear' in man to control his behavior.

4. The propounders of this school, however, considered prevention of crime more important than the punishment for it. They therefore, stressed on the need for a Criminal Code in France, Germany and Italy to systematize punishment for forbidden acts. Thus the real contribution of classical school of criminology lies in the fact that it underlined the need for a well defined criminal justice system.

5. The advocates of classical school supported the right of the State to punish the offenders in the interest of public security. Relying on the hedonistic principle of pain and pleasure, they pointed out that individualization was to be awarded keeping in view the pleasure derived by the criminal from the crime and the pain caused to the victim from it. 6. The exponents of classical school further believed that the criminal law primarily rests on positive sanctions. They were against the use of arbitrary powers of Judges. In their opinion the Judges should limit their verdicts strictly within the confines of law .

Major Shortcomings of the Classical School The contribution of classical school to the development of rationalized criminological thinking was by no means less important, but it had its own pitfalls. 1. The classical school proceeded on an abstract presumption of free will and relied solely on the

act (i. e., the crime) without devoting any attention to the state of mind of the criminal. 2. It erred in prescribing equal punishment for same offence thus making no distinction between first offenders and habitual criminals and varying degrees of gravity of the offence. However, the greatest achievement of this school of criminology lies in the fact that it suggested a substantial criminal policy which was easy to administer without resort to the imposition of arbitrary punishment.

It goes to the credit of Beccaria who denounced the earlier concepts of crime and criminals which were based on religious fallacies and myths and shifted emphasis on the need for concentrating on the personality of an offender in order to determine his guilt and punishment. Beccaria's views provided a background for the subsequent criminologists to come out with a rationalized theory of crime causation which eventually led the foundation of the modern criminology and penology .

c) Neo-Classical School In criminology, the Neo-Classical School continues the traditions of the Classical School within the framework of Right Realism. Hence, the utilitarianism of Jeremy Bentham and Cesare Beccaria remains a relevant social philosophy in policy term for using punishment as a deterrent through law enforcement, the courts, and imprisonment

The ' free will' theory of classical school did not survive for long. It was soon realized that the exponents of classical school faltered in their approach in ignoring the individual differences under certain situations and treating first offenders and the habitual alike on the basis of similarity of act or crime. The neo-classists asserted that certain categories of offenders such as minors,

idiots, insane or incompetent had to be treated leniently in matters of punishment irrespective of the similarity of their criminal act because these persons were incapable of appreciating the difference between right and wrong. This tendency of neo-classists to distinguish criminals according to their mental depravity was indeed a progressive step inasmuch as it emphasized the need for modifying the classical view. Thus the contribution of neo-classical thought to the science of criminology has its own merits.

When crime and recidivism are perceived to be a problem, the first political reaction is to call for increased policing, stiffer penalties, and increased monitoring and surveillance for those released on parole. Intuitively, politicians see a correlation between the certainty and severity of punishment, and the choice whether to commit crime. The practical intention has always been to deter and, if that failed, to keep society safer for the longest possible period of time by locking the habitual offenders away in prisons. From the earliest theorists, the arguments were based on morality and social utility, and it was not until comparatively recently that there has been empirical research to determine whether punishment is an effective deterrent.