

# Baguio central university

Law, Criminal Justice



BAGUIO CENTRAL UNIVERSITY BAGUIO CITY PHILIPPINES (2600) COLLEGE OF  
CRIMINAL JUSTICE EDUCATION CRIMINOLOGY 1 (MWF) (10: 30 — 11: 30)

COMPILATION OF: BEJELYN CIANO STANLEY MATIAS GENEVA SIMON

THEORIES AND PROPONENTS OF CRIMES The scientific study of crime as a social phenomenon, including its causes, prevention, types, consequences, and punishment, and its relationship to other forms of deviant behavior such as alcohol addiction or drug abuse emerged in the 19th century as part of a humanizing movement in which people tried to understand the nature of crime and to devise more effective methods of deterrence and treatment. In the mid-19th century, CRIMINOLOGY arose as a social philosophers thought t crime and concepts of law. Over time, several schools of thoughts have developed. Furthermore, back in the Medieval Period, many unorganized and ephemeral explanations of crimes were stated and accepted. They were known as the SCHOOL OF CRIMINOLGY or SCHOOL OF THOUGHT OF CRIMINOLOGY. They offered explanations to crime causation by formulating a theory which now serves as the basis of our study in CRIMINOLOGY. THE MOST PROMINENT ONES ARE THE FOLLOWING: \* Classical School of Criminology \* Neo-classical School \* Italian and Positivist school \* Cartographic/Geographical School \* Socialist School of Thought \* Psychiatric School of Thought \* Socio-Social-Psycho School Virtually, many book writers on CRIMINOLOGY offer a summary of the main schools of criminological thought, in chronological order, starting with the classical work of BECARRIA and ending with a chapter on contemporary or post-modernist theory. It is difficult to recall dates, names of proponents and the fundamental theories they are espousing. To aid memory in recalling events and people, the

author prepared a table for this purpose. THE CLASSICAL SCHOOL The CLASSICAL SCHOOL OF CRIMINOLOGY is composed of thinkers of crime and punishment in the 18th and early 19th centuries. Its most prominent members were CESARE BECARRIA and JEREMY BENTHAM who shared the idea that criminal behavior could be understood and controlled as an outcome of a “ human nature”. Human beings were believed to be HEDONISTIC, acting in terms of self-interest, but, rational and capable of considering which course of action would benefit him. A well-ordered state therefore, construct laws and punishment (Social Contract of Man) in such a way that peace and non-criminal actions abide in the society. Established punishment are strategies (theory of deterrence) to keep man from further depredation. The criminal law of 18th century, specifically in Europe was generally administered with incredible corruption, arbitrariness and cruelty. Voltaire prepared a way for reform by publicizing the weakness of the criminal law, but it remained for BECARRIA to demonstrate what the faults were and what the remedies might be. BECARRIA advocated the restriction of judges in providing penalties and believed that penalties must be based on the calculated harm of the given crime to society. The theory contended that men originally were w/out government but later created a State through a “ Social Contract” by w/c men surrendered some of their social liberties in return for the security that the government provides them — health, education, etc. Laws of the State became a means of preventing men from encroachment at other man’s freedom. Punishment became the means for dealing with such encroachments. TERMS DEFINED What is HEDONISM? Hedonism refers to pleasure seeking. It is the choice to do things that give

the greatest amount of pleasure while avoiding things that are painful. What is Hedonistic Psychology? It explains that "man governs his behavior by considerations of pleasures and pains, the pleasure anticipated from a particular act may be balanced against the pains and pleasures anticipated from the same act, or the algebraic sum of pleasures and pains from another act. What is Social Contract? It outlines the contract between the government and the citizens. THE CLASSICAL THEORY The CLASSICAL SCHOOL OF THOUGHT was premised on the idea that man has free will in making decisions pertaining to his acts, and that punishment becomes a deterrent for the wrong act he/she had willed so long as the punishment is proportional to the crime and is carried out promptly. Advocates of CLASSICAL SCHOOL postulated that crimes are caused by man's free will. The theory was founded on the Principle of Utilitarianism, Hedonism and Social Contract. PROPONENTS/ADVOCATORS: VOLTAIRE & ROUSSEAU (1700'S) advocated free will, hedonistic decision making, and the failure of the Social Contract in producing criminal behavior. These explanations are at the core of the CLASSICAL THEORY OF CRIMINOLOGY. According to CLASSICAL THEORY, people choose to behave wrongly when they believe the benefits outweigh the costs. ROUSSEAU stated that "man was basically good and was guided by his power to reason, but he has instincts that could be destructive; while VOLTAIRE assumed that the good example set by a ruler would be imitated by those below him. THE ARGUMENTS ON THE THEORY ARE THE FOLLOWING: 1. People have free will to choose how to act 2. Deterrence is based upon the notion of the human being as a hedonist who seeks pleasure and avoids pain. 3. Punishment (sufficient severity) can

deter people from crime 4. Punishment must be swift and certain for more effective deterrence of criminal behavior. OTHER PROPONENTS OF THE CLASSICAL SCHOOL ST. THOMAS AQUINAS — “ man by nature seeks to perform good acts. Crime takes place when man’s power to reason failed”. ST. AGUSTINE — “ man is basically corrupt and surrenders to the devil, the result is crime”. PLATO — stated that “ law could reduce crime-causing conditions in society”. ARISTOTLE — he stressed “ the ability of law to improve social conditions, the distribution of rights, and the requisites for strict obedience to the state. THOMAS HOBBS — held that “ man has the ability to reason. Man has also the desire for power — he constantly craves for prestige and position”. JOHN LOCKE — stressed the “ importance of law being based upon agreement, not a blind pledge between subjects and government”. THE NEO-CLASSICAL SCHOOL The Neo-Classical School gained prominence during the French revolution and the period immediately following it. It continued the beliefs of the Classical School in terms of crime causation theory and punishment but, the theories of this school of thought concentrated on the area of punishment. THE NEO-CLASSICAL THEORY The Neo-Classical School maintained that while the classical doctrine was correct in general, it should be modified in certain details. This school agreed with the Classical School with regards to its general theory that — “ man as a free moral agent should be responsible for his own acts and he severely punished, ” but argued on the issue of punishment. Neo-Classical School placed emphasis on children and lunatics as exempts from criminal liability. Since children and lunatics cannot calculate pleasure and pains, they should not be regarded as criminals or be punished. This principle was to same

extent extended to others, also by the system of taking into account certain "mitigating circumstances." THE ITALIAN SCHOOL The Italian School was founded at the end of the 19th century by CESARE LOMBROSO (1835-1909) and two of his Italian followers, ENRICO FERRI (1856-1929) and RAFFAELE GAROFALO (1851-1934). ADVOCATORS/PROPONENTS LOMBROSO argued that criminals were born with inferior physiological differences that were detectable. He popularized the notion of "born criminal" and thought criminality was an atavism. His central idea was finding crime completely with = in the individual and discarding social conditions and structures that surrounds the individual. ENRICO FERRI (February 25, 1856 — April 12, 1929) was an Italian criminologist, socialist and a student of LOMBROSO. RAFFAEL GAROFALO (1851 — 1934) was an Italian jurist and a student of LOMBROSO. He rejected the doctrine of free will and attempted to formulate a sociologist definition of crime that would designate those acts which can be repressed by punishment. THE ITALIAN THEORY CESARE LOMBROSO known as the father of criminology and leader of the Italian School theorized that criminals differ from non-criminals with reference to certain physical traits w/c he called "stigmata of degeneracy". He found these physical deviations in the parts of the anatomy but placed particular emphasis on deviations in the shape of the cranium. ADVOCATORS/PROPONENTS LOMBROSO argued that criminals were born with inferior physiological differences that were detectable. He popularized the notion of "born criminal" and thought criminality was an atavism. His central idea was finding crime completely with = in the individual and discarding social conditions and structures that surrounds the individual. ENRICO FERRI (February 25, 1856 — April 12, 1929)

was an Italian criminologist, socialist and a student of LOMBROSO. RAFFAEL GAROFALO (1851 — 1934) was an Italian jurist and a student of LOMBROSO. He rejected the doctrine of free will and attempted to formulate a sociologist definition of crime that would designate those acts which can be repressed by punishment. LOMBROSO'S THEORY OF PROPOSITIONS IS THE FOLLOWING: 1. Criminals are by birth a distinct type (a. k. a born criminals or atavism) 2. This type can be recognized by physical stigmata or physical anomalies such as: a) b) Asymmetrical cranium c) Long jaw d) Flattened nose e) Scanty beard f) Low sensitivity to pain g) Long earlobes h) Bulging eyes i) Thick eyebrows j) Curly hair 3. Five or more physical stigmata is assumed to be a born criminal; less than five shows no indication of being a born criminal. 4. Physical anomalies do not cause crime, rather they identify the personality w/c is pre-disposed to criminal behavior. THE POSITIVIST THEORY Positivist School presumes that criminal behavior is caused by internal and external factors outside of the individual's control. Positivist School holds that man is occasionally subdued by a strange and morbid phenomenon which contains him to do wrong in spite of, or contrary to his own volition (mental make-up of man) ADVOCATORS/PROPONENTS GORING made a study between thousands of prisoners in comparison with the general population and reached the conclusion that prisoners differed anatomically from the general population only in: 1. Being slightly shorter in stature, 2. And slightly lighter in weight ERNEST HOOTON, an American anthropologist, attempted to revive the Lombrosian theory. He made elaborate measurements of thousands of prisoners and of a few non-prisoners and concluded that " the primary cause of crime is biological

inferiority". WILLIAM SHELDON associated certain body types of a person with personality dispositions, such as Endomorphs, Mesomorphs, Ectomorphs. GALLUCCI adopted the theory of Sheldon, however, he stressed that physical appearance may simply affect behavior. According to him, " many factors that may cause delinquency and body built are one of them. OTHER PROPONENTS: JOHN LAVATER — made studies on the criminal's peculiar appearance such as dishonest smile, sneaky eyes, curious eyebrows. This approach is known as physiognomy (a determination of personality characteristics through facial features.) JOHN SPURTSHEIM, FRANS GALL, CHARLES CALDWELL — they developed a study of phrenology (a theory that explains skull shape indicates mental characteristics. Phrenology suggest that bumps or indentions of the skull reveal emotional and behavioral traits. CHARLES DARWIN - was the author of Descent of Man. Thos theory of evolution concluded that man developed from lower forms of life until he reached the highest stage of development. RAFFAELE GAROFALO — he agreed with Lombroso on the theory of free will and hedonism and adopted his own theory that replaced the theory of Lombroso. He introduced moral inferiority. THE PSYCHIATRIC SCHOOL The psychiatric school is a continuation of the Lombrosian School with emphasis on morphological traits rather than physical traits. While the Lombrosian theory gave emphasis on the physical make-up of a person as primary factor in crime causation, Psychiatric school on the other hand stressed on personality complex. THE PSYCHIATRIC THEORY Psychiatric School theorizes that " certain organization of personality, developed entirely apart from criminal culture will result in criminal behavior regardless of social situations". The school emphasized



emotional disturbance and other minor psychopathy acquired through social interaction (Personality Complex) as the main cause of criminal behavior. Personality complex is similar to biological theory in which the central thesis is that “ crime is caused by a lack of balance between the intellectual and emotional capacities of the individual. Others attributed to Inferiority Complex. Examples of offenders with some emotional disturbance: \* Holding hostages \* Assassins \* Jealousy \* Feeling of grandeur PROPONENTS: SIGMUND FREUD — pioneer of psychoanalysis stated that personality is made up of 3 core elements: 1. The ID (the seat of instinct and basic drives) 2. The EGO (keeps ID and SUPEREGO balanced) 3. The SUPER EGO (acts as moral conscience) ALEXANDER and STAUB — believed that family is crucial to a healthy personality structure. SCHLAPP and SMITH — forwarded the idea that imbalance of endocrine glands produce emotional instability that could cause crime. ELLIS and SMITH — noted that female offenders display aggressive behavior during immediate pre-menstrual periods. SOME TYPES OF PERSONALITY: \* Sexual deviants — homosexuality, bestiality, sadism, masochism \* Egoistic \* Psychopathic personality \* Neurotic personality THE CARTOGRAPHICAL/GEOGRAPHICAL THEORY The leaders of this school were concerned primarily with the distribution of crimes in certain areas, both geographical and social. They were interested in crime as a necessary expression of the social conditions. It follows therefore that a particular place or area shall be known for a particular type of crime depending on the location or geography of the place and its social condition. THE SOCIALIST THEORY The socialist theory was based on the writings of MARX and ENGELS, 1850 — Economic Determinism. This school was concerned with crime as a

by-product of variations in crime rates in association with variations in economic conditions. PROPONENTS: MARX ENGELS THE SOCIO-SOCIAL PSYCHO THEORY The Socio-Social-Psycho School emphasized the " theory of imitation" in crime causation. The central thesis of the theory is that " criminal behavior results from the same process as other social behaviors. "

TWO PRICIPAL FORMS ARE DISCERNED: 1. Related variations in crime rates due to variations in larger institutional system, or social conditions such as:

- a) Process of mobility
- b) Culture
- c) Political
- d) Religious
- e) Population density
- f) Distribution of wealth, income and employment

2. Sociologist attempted to define the process by which a person becomes a criminal: a) Imitation b) Attitude c) Value d) Frustration e) Aggression f) Differential association

PROponents: TORDE — a French social psychologist and contemporary of Lombroso refuted the prevailing biological notions and developed a theory emphasizing the importance of " imitation" in crime causation. His basic notion it that " one behaves according to the custom of his society, " If a steals or murders, hi is merely imitating someone else. EDWIN SUTHERAND — known as the Dean of Criminology and a proponent of differential association assumed that society contains variety of values and behavior. According to him association with those guided by anti-social values were likely to lead individuals to learn criminal behavior. He holds that " criminal behavior is learned through interaction with people. " EMILE DURKHEIM — according to him complicated, industrialized societies promote isolation of the individual with advance development of jobs, became specialized in their activities and are expected to survive on an individual rather than group basis (Anomie Syndrome). OTHER PROPONENTS: ERNEST BURGEAS,

CLIFFORD SHAW, HENRY MCKAY — adopted the view that certain environment creates more favorable condition for crime than others.

LANDER — concludes that permanence such as house ownership and stable population were more related to low delinquency rate. COHEN — stated that a child from the lower class of society is denied the means of achieving middle class goals — the child environment does not prepare him to succeed in a society dominated by middle-class definition of success. CLOWARD and OHLIN — proponents of Differential Opportunity stated that individuals differ in their ability to achieve middle-class goals through both legitimate and illegitimate means. It assumes that working class children have limited access to legitimate means. He further stated adult criminals provided highly visible models of behavior that could serve as negative examples to teenagers.

PRESENT THEORIES OF CRIME The Schools of Thought had imparted arguments on the theories of crime causation and were taken as bases for studies on criminology. Recent studies in crime causation present other theories w/c are more or less similar to the old theories and are also taken as the bases of study in criminology. BIOLOGICAL/PHYSIOLOGICAL

THEORY ARGUMENT: all biological theories are based on the notion that biological markers foreordain (pre-disposed) criminal behavior. The core of all these theories is that genetic factors or any abnormalities which are inherited or acquired throughout the life, predispose individuals to the criminal behavior. PROPONENTS: GODDARD — held that low intelligence compared to the improper environment could create criminals. Intelligence is inherited and unchangeable. RICHARD DUGDALE — concluded that inferior intelligence and crime were linked by breeding degenerate people. EYSENCK

intelligence and crime were linked by breeding degenerate people. EYSENCK

— believed that inherited different degrees of sensitivity to pain and punishment concentrate on obtaining pleasure. WILLIAM SHELDON — associated certain body types of person with personality dispositions, such as endomorphs, mesomorphs, ectomorphs. CHARLES GORING — postulated that heredity plays a significant part in crime causation. He found out that criminals are inferior due to the inherited traits — smaller body statute and inferior mental ability. HOOTON — theorized that criminality is not due to the physical inferiority but rather due to biological inferiority. PSYCHOLOGICAL THEORY The main idea of the psychological theory is that potential criminal behavior is the result of the unstable psychological trait of a person. These personality characteristics are the ones that push people towards committing crimes and demonstrating deviant behavior. PROPONENT: HANS EYSCENT — describe extraversion-introversion as the degree to which person is out going and interactive with other people. These behavioral differences are presumed to be the result of underlying differences in brain physiology. THE PRIMARY SOCIAL GROUP THEORY The family and neighborhood are known as “ the primary social group of society”. The family should be concerned with the psychological, sociological and environmental growth of a child. Failure of the family to provide these attributes is a sure formula to delinquency. The neighborhood is an essential component of a family. It had been previously mentioned that the first contract of a child is a family where the child learns all the basics in life. And, the next contract of the child is the neighborhood where he seeks playmates. This is where the child develops relationships outside of the family and learns to associate himself with outsiders.