



CRIMINOLOGY: THE PILLAR OF CRIMINAL LAW

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“The deviant and the conformist...are creatures of the same culture, inventions of the same imagination.” - Kai Erikson.¹

The theories of crime are deeply rooted within the edifice of the assumption that the increase in the crime rate is directly proportional to the social and economic advancement of the world. Historical criminology brings methods and concepts from history to the study of crime and criminal justice. This paper covers the different aspects of schools and frameworks of criminology and their perspectives on the existence of the branch of criminal law, theory, and research.

For thousands of years, mankind has developed and applied vague or specific thoughts about what behavior should be labeled as criminal, who the criminals are, and what the causes of crime may be. This paper highlights the roles and views of philosophers of different centuries regarding the understanding of a criminal, crime, and those who criticized the cruel and unjust criminal justice system.

This paper also examines a comparative analysis of global crime rates and trying to search for consensus between the famous criminology viewpoints. The paper also

focuses on sociologists, psychologists, and physicians that introduced societal and individual causes of crime in a comprehensive way. Finally, the paper puts forth new developments in the field of criminology, the disciplines which triggered new thoughts on the causes of crime, including the white-collar crimes, female criminality, and, the evolutionary concept of victimology.

Introduction

A society is governed by a set of rules modified or uncodified. Where there are guidelines of a given society, its infraction is inescapable and there lies the need for concocting some ways that intend to check such propensities in the society that prompt infringement of its standards. In each civilization certain demonstrations are illegal. State forces certain punishments upon the miscreant with the protest of saving peace in the society and advancing great conduct towards one another and towards the network on the loose.

As per Terence Morris "Crime is the thing that society says is a crime"² by setting up that a demonstration is an infringement of the criminal law. The idea of crime has dependably been reliant on general sentiment. Without law, there can be no crime by any means. The law mirrors the general assessment of time. More than some other part of the law, criminal law is the reflection of popular supposition. With the end goal to know the nature and the substance of crime, we should above all else

¹ Janice Knight, *Orthodoxies in Massachusetts: rereading American Puritanism* (1997).

² TERENCE MORRIS, *CRIME AND CRIMINAL JUSTICE SINCE 1945* 17 (1989).



realize 'what is law?' on the grounds that the two inquiries, crime, and law are so firmly related with one another that it is exceptionally hard to comprehend one without knowing the other. Law is the total of guidelines set by men as politically prevalent or sovereign, to men as politically subject that is it is routed to the individuals from the society as a rule.

According to Blackstone "crime is an act committed or omitted in violation of a public law either forbidding or commanding it"³. As per Kenny "Crimes are wrongs whose sanction is punitive and is in no way remissible by any private person but remissible by crown alone, if remissible at all"⁴. Austin mentions that "A wrong which is pursued at the discretion of the injured party and his representative is a civil injury; a wrong which is pursued by the sovereign or his subordinates is a crime."⁵

Criminology is the logical investigation of the nature, degree, causes, and control of criminal conduct in both the individual and in society. It is an interdisciplinary field in the conduct sciences, drawing particularly upon the exploration of sociologists (especially in the humanism of abnormality), analysts and specialists, social anthropologists and in addition on compositions in law. Regions of research in criminology incorporate the frequency, structures, causes and outcomes of crime.

³ BLACKSTONE, 4 COMMENTARIES ON THE LAWS OF ENGLAND (1765).

⁴KENNY, OUTLINES OF CRIMINAL LAW 15-16 (2010).

⁵ JOHN AUSTIN, THE PROVINCE OF JURISPRUDENCE DETERMINED 44 (1861).

While a moderately new scholarly discipline, the art of criminology is ancient.

Historical Evolution

As human culture has advanced more than a large number of years, so has our comprehension of the reasons for crime and social orders' reactions to it. As is regularly the situation, the historical backdrop of current criminology discovers its underlying foundations in antiquated occasions. From the beginning of time, individuals have perpetrated crimes against each other.

The Beginning of the Laws

Laws that clearly characterized crimes and related disciplines were built up to both suppress crime and to put a conclusion to the blood quarrels that brought about the unfortunate casualties' vengeance. The Code of Hammurabi⁶ is one of the earliest, and possibly the best-known endeavors to establish a set discipline scale for crimes. The standards set out in the code are best depicted as the "law of retaliation."⁷

- Intermingling of Religion and Culture

In western culture, a significant number of early thoughts regarding crime and discipline were protected in the Old Testament of the Bible. The idea is most

⁶ CHARLES F. HORNE, C. H. W. JOHNS & L. W. KING, THE CODE OF HAMMURABI (2009).

⁷ JOHN LATHROP, GEORGE THACHER & JAMES WHITE BURDITT, A DISCOURSE ON THE LAW OF RETALIATION: DELIVERED IN THE NEW BRICK CHURCH, FEBRUARY 6, 1814 (1814).



effectively perceived as the articulation "eye for an eye."⁸

In early social orders crime, alongside most everything else was seen with regards to religion. Criminal acts affronted the divine beings or God. It was in this setting demonstrations of retribution were defended, as a way to conciliate the divine beings for the insult carried out against them by the crime.

- The connection of crime with early philosophy

Quite a bit of our advanced comprehension of the connection among crime and discipline can be followed to the compositions of the Greek logicians Plato and Aristotle, however, it would take over a thousand years for a significant number of their ideas to flourish.

Plato⁹ was among the first to guess that crime was regularly the aftereffect of a poor instruction and that disciplines for crimes ought to be evaluated dependent on their level of blame, taking into consideration the likelihood of moderating conditions.

Aristotle¹⁰ built up the possibility that reactions to crime should endeavor to avoid future acts, both by the criminal and by others who might be slanted to perpetuate different crimes. Most remarkably, that discipline for crime should fill in as an obstruction to other people.

- The Saga of Society and Law

⁸ MARGUERITE DE ANGELI, THE OLD TESTAMENT (1966).

⁹ Gregory Mellema, *On risk taking and moral responsibility*, 6 Criminal Justice Ethics 3–11 (1987).

¹⁰W. Von Leyden, *Aristotle on Equality and Justice*, (1985).

The principal society to build up an extensive code of laws, included criminal codes, was the Roman Republic¹¹. The Romans are generally viewed as the genuine antecedents to the cutting edge lawful framework, and their persuasions are still considered today, to be the Latin dialect is safeguarded in a great part of the legitimate wording. Rome took a more mainstream perspective of crime, seeing criminal goes about as an attack against society rather than divine beings.

- Evolution of Crime and Punishment in the Middle Ages

The presentation and spread of Christianity all through the west realized an arrival to a religious association among crime and punishment. With the decay of the Roman Empire, an absence of solid focal expert prompts a stage in reverse in demeanors toward crime.

Criminal acts started to be thought of as works and impacts of the fallen angel or Satan. As opposed to old occasions, where disciplines were frequently completed to assuage the divine beings, disciplines were currently done with regards to doing God's work. Harsh punishments were intended to cleanse the criminal of transgression and free them of the impact of the fallen angel.

- Establishments for the Modern View of Crime

The Roman Catholic scholar Thomas Aquinas communicated some ideas in his

¹¹ KLECKNER SIMONE-MARIE VRĂBIESCU, THE PENAL CODE OF THE ROMANIAN SOCIALIST REPUBLIC(1976).



treatise "Summa Theologica." ¹² It was trusted that God had built up a 'Characteristic Law,' and crimes were comprehended to disregard the regular law, which implied that somebody who perpetrated a crime had likewise carried out a demonstration which isolated themselves from God. It started to be comprehended that crimes hurt the unfortunate casualty as well as the criminal. Criminals, while suffering the punishment, were likewise to be felt sorry for, as they had put themselves outside of God's grace.

- Present day Criminology and the Secular Society

The lords and rulers of that time guaranteed their extremist specialist on the desire of God, professing to have been set in power by God and along these lines acting inside His will. Crimes against people, property, and state were altogether seen as crimes against God and as sins. Rulers professed to be both of head of state and head of a chapel.

As the thought of detachment of chapel and state started to flourish, thoughts regarding crime and discipline took a more mainstream and humanistic shape. Present-day criminologists try to take in the main drivers of crime and to decide how best to deliver it and to anticipate it. Early criminologists upheld a sound way to deal with managing crime, pushing against the maltreatment by administrative experts.

Notable Theories surrounding Criminology

¹² THOMAS & REGINALD, THE "SUMMA THEOLOGICA" OF ST. THOMAS AQUINAS (1920).

Classical Criminology Theory

1. Cesare Beccaria¹³

- He upheld for a fixed size of crime and comparing discipline dependent on the seriousness of the crime. He also held that the punishment ought to be proportionately more prominent than the potential joy gain by breaking it.
- A great thinker and jurist who believed people were essentially determined and motivated by independent self-centered goals, however, they would be judicious in their activities.
- Beccaria trusted that the job of judges ought to be restricted to deciding blame or guiltlessness and that they should issue penalize dependent on the rules set out by the governing bodies.
- He also recommended that the role of government was to follow up for the benefit and in the best interest of all the citizens.

2. Jeremy Bentham¹⁴

- He brought the concept of 'Utilitarianism' to light whereby, law ought to guarantee the greatest good for a greater number of individuals.
- He also put forth the proposition that law ought to be founded on a social contract among government and

¹³ CESARE BECCARIA, GRAEME NEWMAN & PIETRO MARONGIU, ON CRIMES AND PUNISHMENTS (2016).

¹⁴ Gilbert Geis, *Pioneers in Criminology. VII. Jeremy Bentham (1748-1832)*, 46 *The Journal of Criminal Law, Criminology, and Police Science* 159 (1955).



nationals, with each side tolerating certain outcomes if the contract were broken.

Positivist Theory¹⁵

Positivism puts the spotlight on biological and mental components (instead of a lawful framework) to clarify criminal conduct.

Sociological Theory¹⁶

- Anomie Theory

As society moved from a country to an urban setting, the conventional qualities and bonds that controlled a person's conduct inside the gathering were debilitated; no longer controlled by societal standards in the good old ways and given the secrecy a person may get in a major city, certain people swung to crime.

- Ecological Theory

Communities that experienced high rates of destitution and social breaking down is more likely to be forgiving or support criminal action than a more affluent neighborhood.

- Strain theory

It states that a social structure inside a society may make individuals carry out crimes. In particular, the degree and kind of abnormality individuals take part in relying upon whether a society gives the way to accomplish social objectives.

- Social Conflict Theory

It basically implied that crime is unavoidable in a capitalist society.

- Consensus Theory

It talked about how there is an all-inclusive meaning of good and bad, a universal concept and criminal law mirrors this consensus.

- Labeling theory

It is the fundamental thought that abnormality and congruity result less from what individuals do as from how others react to these activities. This theory focuses on the relativity of abnormality, the possibility that individuals may characterize a similar conduct in any number of ways.

- Rational Choice theory

It states that individuals carry out crimes when it is judicious for them to do as such as indicated by investigations of expenses and benefits, and that crime can be lessened by limiting advantages and augmenting expenses to the eventual criminal.

- Psychopathic Theory

Natural criminals do not feel disgrace or blame from their activities. They do not fear discipline and have little sensitivity for the general population they harm. These people are said to have a mental issue as psychopathy or identity issue.

- Social disorganization theory

It states that crime will probably happen in regions where social organizations cannot straightforwardly control gatherings of people.

- Social learning theory

It states that individuals embrace new practices through observational learning in their environments.

¹⁵ STEPHEN JONES, CRIMINOLOGY (2013).

¹⁶ROBERT AGNEW & JOANNE M. KAUFMAN, ANOMIE, STRAIN AND SUBCULTURAL THEORIES OF CRIME (2010).



- Subcultural theory

It states that conduct is impacted by components, for example, class, ethnicity, and family status. This present theory's essential spotlight is on adolescent crime.

Sociological Perspective

Criminology is the investigation of crime and criminals; a part of human science. All the more precisely, it is the investigation of crime as a social pattern, and its general roots, its many manifestations and its effect on society all in all. That makes it an essential type of humanism and sociological instrument.

Understanding Foucault's Power and Knowledge in Criminology

As we attempt to analyze the formation of the concept of crime in the old age we cannot overlook the role by alleged specialists, or "capable men", in the social development of the criminal as a "class separated". These specialists included welfare and police authorities, legal advisers, restorative experts, therapists, and humanitarians. The majority of their perspectives of criminals fit inside Foucault's power/knowledge paradigm¹⁷, For Foucault, power, and knowledge are not seen as independent entities but are inextricably related—knowledge is always an exercise of power and power always a function of knowledge, which implied that

¹⁷ Robert Nola, *Knowledge, discourse, power and genealogy in Foucault*, 1 Critical Review of International Social and Political Philosophy 109–154 (1998).

the subject of their expert gaze, "the criminal," was deprived of individual personality and diminished to a social issue that society hated and these "skilled men" could evidently fathom. In other terms we can also say that Law is dictated by the political procedure thus law endorses certain measures of lead to be seen by the general population in society. These measures have the endorsement of the society all in all. Any deviation from the measures of conduct settled by the society is rebuffed. In this way, such direct as does not accord with the recommended standard is inexactly known as crime.

Criminology as a Political Agenda

The notion behind criminality was also a need of a political agenda. If we look through the inceptions of criminology amid the French Revolution, the part played by individuals from the Victorian legal system in articulating the new idea of the "reasonable man" in homicide cases, the evident relationship of criminality with Jews, crime, and corruption in late-nineteenth-century urban Germany, and the criminologists' look greatly affected the general public.

This new talk on criminals totally stripped the individual criminal of any personal identity. Rather, "the criminal" is a "type" of human, one regularly without "typical" mental and scholarly resources. When these characters had been expelled, it turned out to be considerably simpler for criminologists and the state, especially after the Nazis rose to power in Germany, to manage criminals, who were frequently delineated as Jews, as they saw fit, without a lot of open resistance.



Reading Edward Said's theory of 'Self' and 'Other' in Criminology

Literary Critic Edward Said¹⁸ has famously founded the postcolonial canon and his theory of 'Self' and 'Other' can be well applied to distinguish between a common man and a criminal. For instance the common man sees himself as 'self' and attributes all the superior traits to himself and relates the reasonable behavior with his personal take and whatever he understands as negative, as different, as something that ought not to be done, or that has to be prohibited he reckons that as the 'Other'. In this relation, Nazi Germany specifically addresses the idea of the criminal as "other." All the more decisively, non-churchgoers, nontraditional ladies (the individuals who declined to wed), rowdy specialists, and those on the left of the political range were marked as "hysterics," "mental cases," or biologically mediocre and along these lines deserving punishment. Eventually, these ways aided in the production of and legitimization for Nazi race laws.

The Relationship between Demographics and Crime

Criminology grew further as sociologists attempted to take in the underlying drivers of crime. They contemplated both the society and the person. In 1827 France, with the first ever publication of national crime statistics, Belgian analyst Adolphe Quetelet took a gander at similitudes among socio-

economics and crime rates.¹⁹ He looked at zones where a higher rate of crime happened, and the age and sex of the individuals who carried out these crimes. He found that the most noteworthy quantities of crime were carried out by under-taught, poor, younger individuals. He likewise found that more crimes were carried out in wealthier, more well-to-do geological zones. This exhibited crime happened to a great extent because of chance and demonstrated a solid relationship between financial status, age, training, and crime.

Global Crime Rate

According to the 'International Statistics on Crime and Justice'²⁰ by European Institution for Crime Prevention and Justice in affiliation with the United Nations if we take into consideration for the purpose of our study the crime index of Intentional Homicide it can be suggested that, overall, figure 1 indicates low homicide levels in nations in Europe, Asia and North America, with reasonable ascension between criminal equity and general wellbeing information. Conversely, both criminal equity and general wellbeing information demonstrate fundamentally higher rates in South America, Central America, the Caribbean, and Southern Africa. Extensive information disparities stay for Middle, Western, and Eastern Africa. Substantive work on the

¹⁹ ADOLPHE QUETELET, ADOLPHE QUETELET'S RESEARCH ON THE PROPENSITY FOR CRIME AT DIFFERENT AGES (1984).

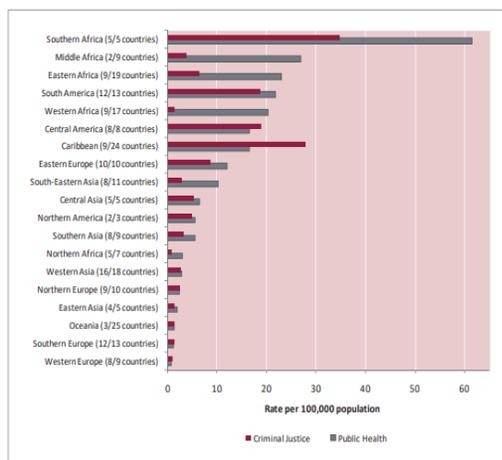
²⁰ REPORT SERIES - INTERNATIONAL STATISTICS ON CRIME AND JUSTICE, REPORT SERIES - INTERNATIONAL STATISTICS ON CRIME AND JUSTICE (S. HARRENDORF, M. HEISKANEN, & S. MALBY EDS.,)

¹⁸ David C. Gordon et al., *Orientalism*, 40 *The Antioch Review* 104 (1982).



managerial information recording frameworks in both the criminal equity and general wellbeing fields is required in these sub-areas before significant examinations can be made with other sub-districts of the world. Figure 1 additionally uncovers the proceeded with the presence of significant information constraints. Specifically, not very many nations in Middle, West and Eastern Africa can give criminal equity information on the purposeful murder. Where information is accessible, huge contrasts exist as contrasted and general well-being figures.

Figure 1. Average intentional homicide rate by sub-region, latest available year, criminal justice and public health data



Note: Figure 1 includes only those countries for which at least one criminal justice and one public health value for intentional homicide are available in the period 2003-2008. This is indicated alongside each sub-region name by the number of countries included out of the total countries in the sub-region.

Modern Criminology

In the late nineteenth century, Italian psychiatrist Cesare Lombroso²¹ contemplated the reason for crime dependent on individual biological and

²¹ MARY GIBSON, BORN TO CRIME: CESARE LOMBROSO AND THE ORIGINS OF BIOLOGICAL CRIMINOLOGY (2002).

mental attributes. Lombroso found certain physical qualities shared among criminals that persuade there was a natural and genetic component that added to a person's capability to perpetrate a crime. These two lines of reasoning, natural and ecological, have advanced to supplement one another, perceiving both inner and outside elements that add to the reasons for crime. The two schools of thought shaped what is today viewed as the control of modern criminology. Criminologists currently consider societal, mental and organic variables. They make arrangement suggestions to governments, courts and police associations to help with counteracting crimes. The criminal equity framework currently serves to rebuff criminals to deter future crimes rather than just respond to crimes officially carried out.

New Developments in the Field of Criminology

White-Collar Crime

It was characterized by Edwin Sutherland²² as crime carried out by people of high social position over the span of their occupation. The salaried crime includes individuals making utilization of their word related position to advance themselves as well as other people wrongfully, which frequently causes open harm. In this type of crime, open mischief wreaked by false promoting, advertising of perilous items, misappropriation, and a gift of open authorities is broader than the vast majority think, a large portion of which go unnoticed and unpunished.

²² EDWIN HARDIN SUTHERLAND, WHITE-COLLAR CRIMINALITY (1940).



- Hate crime

It is a criminal demonstration against a man or a man's property by a wrongdoer spurred by racial, ethnic, religious or different predisposition. Abhor crimes may allude to race, family line, religion, sexual orientation, and physical handicaps. As per a Statistics Canada publication²³, "Jewish" people group has been the in all probability the casualty of detest crime in Canada amid 2001-2002. Generally speaking, around 57 percent of despising crimes are propelled by ethnicity and race, focusing on mostly Blacks and Asians, while 43 percent target religion, fundamentally Judaism and Islam.

- Female Criminality

Female crime, by definition, alludes to the crimes carried out by women. It relates to the male crime and is a crime order which is produced using a sex point of view. The primary reason for this order is to investigate the reasons for female crime and make a positive counteractive action. Lately, without a doubt, there has been a surge in the number and relative proportion of female crime yearly which cannot be overlooked. It has become imperative to contemplate female criminality as a different frame.

- Corporate crime

It alludes to the unlawful activities of a company or individuals following up for its benefit. Corporate crime ranges from intentionally pitching broken or unsafe items to deliberately dirtying nature. Most instances of corporate crime go unpunished, and many are never at any point known to the general population.

²³ Kent Roach, *The criminal law and its less restrained alternatives*, Global Anti-Terrorism Law and Policy 91–121.

- Organized crime

It is a business that provisions unlawful merchandise or administrations, including sex, medications, and betting. This kind of crime extended among settlers, who found that society was not continually ready to impart its chances to them. A well-known case of composed crime is the Italian Mafia.

- Victimology

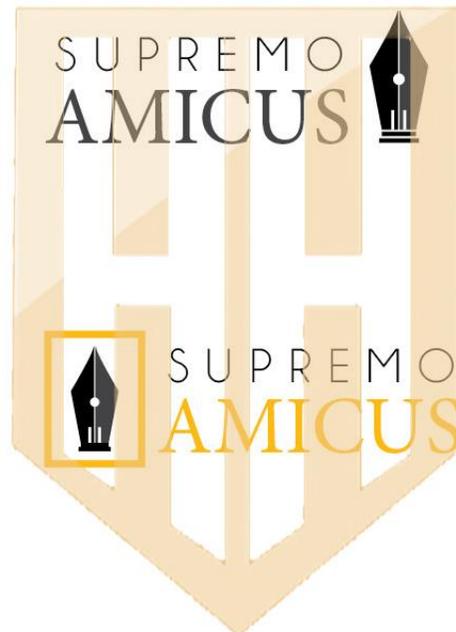
Victimology is the logical investigation of victimization, including the connections among unfortunate casualties and guilty parties, exploited people and the criminal equity framework, and victims and other social gatherings and foundations, for example, the media, organizations, and social developments. Victimology examines casualties of crimes and different types of human rights infringement that are not a real crime.

Conclusion

Crime is not permanent like a sin, that can be characterized and have a presence past the points of confinement of what men may state and do. It is basically a relative meaning of conduct that is always experiencing change. The rebellion of law might be named as a crime. Be that as it may, insubordination of all law is not described as a crime. To a typical man, crimes are those demonstrations which individuals in society consider deserving of genuine condemnation. Crime is said to be a demonstration which is both illegal by law and against the ethical notions of the society. For a demonstration to be a crime it must be one done infringing upon law and in the meantime, it ought to be against the ethics



assessments of the society of the occasions. Moral qualities differ from nation to nation, every now and then and from place to place in the same nation. This is clear from the way that Homosexuality is India till very recent was a crime.²⁴



²⁴ pti, SC DECRIMINALISES SECTION 377: A TIMELINE OF THE CASE - TIMES OF INDIA THE TIMES OF INDIA (2018)