

Classical Criminology

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Classical criminology developed in western Europe during the eighteenth century, incorporating the emerging ideas of liberty and democracy into the criminal justice system. The classical school brought the revolutionary ideas of liberalism and utilitarianism from the Age of Reason into the criminal justice system. Classical criminology advocated the principles of fairness, individual rights, and due process instead of retribution, brutality, and arbitrariness, which were commonplace in eighteenth-century Europe. Torture to extract confessions, along with cruel punishments such as mutilation, whipping, and public executions, were routinely employed. Foucault (1975) illustrates this frequent barbarism through the graphic description of the ruthless public execution of Robert-Francois Damiens in 1757 for the attempted regicide of Louis XV in France. The growth of the middle classes provided an audience demanding legal rationality and equality to support national and international trade and commerce. Classical criminology emerged as a way to provide a logical, rational, and theoretical alternative to this abusive, inhumane, and inconsistent criminal justice system. The principal component of the classical school of criminology is the emphasis on human agency, or free will. That is, individuals are able to make decisions determining the direction of their life's course.

Prior to the introduction of the classical school, individuals relied on spiritualism to ascertain who was criminal and who was not. Spiritualism focused on conflict between good and evil. People who engaged in crime were thought to be possessed by evil spirits, typically referred to as demons. While the origins of spiritualism are unknown, it was common for ancient civilizations to blame the paranormal for unexplainable phenomena. Spiritualism continued to develop through the Middle Ages, becoming entwined with the social and political structure of feudal

Europe. During the feudalist period, several new processes were developed to deal with suspected criminals that addressed the private nature of crime. Crime was originally thought of as a private problem, a transgression between two individuals, an offender and a victim (or the victim's family). This resulted in the creation of blood feuds that would ruin entire families (e.g., the Hatfields and McCoys), along with justice being dispensed inconsistently. A strong family might never have a guilty member punished while a weak family might have an innocent member being unfairly wronged or the victim never finding justice.

Eventually, the procedure of dealing with offenders evolved, being replaced by three separate methods: trial by combat, trial by ordeal, and trial by oath (Vold and Bernard 1986). While the private nature of crime became open with the disciplining process being performed in public, it still was very much tied to spiritualism's belief of good versus evil being decided by the supernatural. Trial by combat allowed the victim and offender, or a family member from each of the parties, to fight each other to determine who was the upstanding citizen. The innocent party would be the victor of the battle, having put faith in God (Vold and Bernard 1986). Yet, this allowed criminal behavior to continue among individuals who were good at fighting, since they would always be exonerated. In trial by ordeal a suspected offender would undergo intense life-threatening pain. Innocence would be declared if the individual survived, occurring through the grace of God absolving the individual. Guilt resulted in a painful death. Examples of this trial include being tied up and thrown into a body of water: an innocent person would float while the guilty sank (Vold and Bernard 1986). However, this method was reversed during the witch trials of the fourteenth and fifteenth centuries, in which an individual who sank was not a witch but could drown, while floating meant the individual was in league with the devil (Currie 1968). Clearly the context for this type of trial mattered. Another example of trial by ordeal would be the placing of large stones on individuals' chests; if their chests were not crushed then they were not guilty.

The final procedure employed was trial by oath, in which esteemed people in the community would essentially vouch for a suspected offender's innocence. It was believed that no one would swear a false oath to God in fear of retribution (Vold and Bernard 1986).

While spiritualism was the dominant perspective through the sixteenth century, scholars began to look at more naturalistic explanations to account for crime. These scientists began to explain human behavior in terms that were understandable and not otherworldly (Vold 1958). Two of the most influential scholars who applied this naturalistic theory to explain criminal behavior were Cesare Beccaria and Jeremy Bentham. The development of classical criminology occurred prior to and during the American Revolution. While these scholars applied the democratic ideals emerging throughout western Europe and America to the criminal justice system, their theories were in direct response to the autocratic governments of France and England.

Born into an aristocratic family, Beccaria had a solid liberal arts education and became an economist and mathematician. Beccaria's book, *On Crimes and Punishments*, released in 1764, is considered to be one of the most important treatises on penal reform, criticizing the barbarism used in criminal justice procedures in Europe. Beccaria's critique came at a time when the French police were permitted to not only deal with many criminal matters, but also regulate the public opinions of morality and politics. Individuals who were arrested for a crime lost legal assistance, could be tortured, and were removed from their family: similar to the modern concept of rendition.

Beccaria's argument can be summarized into 11 major points (Radzinowicz 1966). First, in order to avoid disorder and war, individuals relinquished some liberty to establish a contractual relationship with society. This set up a sovereignty able to create laws and punish those that broke them. Second, the establishment of criminal laws restricts the freedoms of individuals and should remain narrow in scope, ignoring morality. The greater sanctioning of human behavior will only increase the amount of crime, not inhibit it (e.g., Prohibition in 1920s America). Third, the guiding principle should be the presumption of innocence not guilt during all stages of the administering of

justice, thereby protecting the rights of all parties involved. Fourth, laws should be written down in a criminal code defining what are offenses and punishments. Fifth, punishment should be retributive, since one individual has violated another's rights. Sixth, the severity of the punishment should be restricted to what is required to deter future criminality and not go beyond. Seventh, the punishment should correlate or fit with the severity of the crime, not the individual criminal. Eighth, the punishment for an offense should be certain and quickly administered. Ninth, the punishment should not be used to reform the individual or set an example. Tenth, the criminal should be considered a logical, rational person who has weighed the consequences of partaking in a criminal act. The final tenet asserts that the aim of any legislative administration should be to inhibit crime. Thus, it is better to prevent crime than to punish offenders.

Another scholar critical of the justice system was Jeremy Bentham, an English philosopher and jurist. Being a utilitarian, Bentham argued that crime is the result of human behavior and can be attributed to an individual's free will through the employment of "hedonistic calculus." Bentham describes hedonistic calculus as an individual's ability to logically ascertain if the pleasure acquired from the participation of a criminal act outweighs the potential pain. Thus, individuals are considered to be selfish actors pursuing gratification while avoiding discomfort. Thus, "nature has placed mankind under the governance of two sovereign masters, pain and pleasure" (Bentham 2010/1789). Therefore, crimes are just acts that quench the basic aspirations of human behavior.

In 1789 he developed a general theory of crime, which is composed of four sanction systems, that are the sources of pleasure and pain: physical, religious, moral, and political. Physical sanctions are natural restrictions (e.g., bodily harm) to behavior making them risky or difficult to achieve. Religious sanctions (e.g., hellfire) are deterrents that are delivered in both this life and the afterlife. Presumably this type of sanction should be a powerful influence on individuals, yet previous research has shown this to not be the case. According to Bentham, moral sanctions (e.g., attachment) should be considered the most important of the four, requiring the assent of neighbors, the community, and family: essentially, establishing a

type of informal deterrence that is quite potent (Grasmick and Bursik 1990). The theories of both social disorganization and social bond build off of this concept. Finally, political sanctions (i.e., penalties) are state limitations of an individual's behavior. Thus, behaviors that are either considered to be criminal or non-criminal are based upon what the government (i.e., the criminal justice system) deems to be the most optimal and utilitarian to society. By emphasizing the principles of utility to justify the use of government penalties to produce some optimum effect for society, Bentham began to focus primarily on political sanctions. Bentham also argued that punishment should have a suppressive effect.

Thus, the principal criminological theory that accounts for the principles developed by Beccaria and Bentham is deterrence. Essentially, deterrence theory argues that individuals who are planning on engaging in a crime are able to account for the legal sanctions of the act and the probability of being apprehended. However, this calculation is influenced by the individual's knowledge of the criminal justice system (Paternoster 1985).

Deterrence theory stresses that the foundational purpose of the criminal justice system is to inhibit crime, and that it should not be used for vengeance. Therefore, in order to encourage compliance with criminal laws these political sanctions should have reasonable penalties that are administered in an equitable manner. The application of these principles establishes a more uniform and equitable justice system. Thus, in order to inhibit human behavior a sanction must be composed of three dimensions: severity, certainty, and celerity.

The concept of severity can be understood as providing an appropriate sanction for a criminal act. Thus the punishment must "fit the crime." This concept is comparable to the idea of retribution (e.g., an eye for an eye) described in the Code of Hammurabi, the Torah, and the Bible's Old Testament. Thus, the penalty for a criminal act must be proportional to the harm caused to society by the crime. If the punishment is not serious enough it will not deter crime; if it is too grievous than the penalty is unjust.

Certainty refers to the probability that an individual will be apprehended and punished for a crime. In order to dissuade individuals from the commission of a criminal act the sanction for a crime must be definite. Beccaria and Bentham

both stressed that the certainty is a more effective dimension in deterring crime than severity.

The swiftness with which a criminal sanction is applied is the celerity of punishment. A punishment that is immediately administered after the perpetration of a crime is more effective because the individual will directly associate the punishment with the crime. As the time interval increases from the commission of the crime to the sanctioning the deterring effect reduces (Beccaria 1963/1764).

If one of these aspects is lacking from the punishment, then the deterrence effect is substantially reduced and requires the other dimensions to compensate. Thus, if the certainty of punishment decreased then the severity and celerity would have to increase to maintain the deterrent effect. If the celerity of punishment is unable to be modified, leaving only the severity of punishment to be adjusted, then the acuteness of the sanction must be great. Yet, this limits the impact of deterrence, since a harsher penalty will less likely be utilized. Thus, if the sanction does not have certainty, celerity, and severity then individuals are unable to rationally calculate the pain to be experienced from the commission of a crime and they will be less likely to restrain themselves from carrying out the act.

Deterrence theory is generally operationalized as either specific or general. Specific deterrence refers to the idea that apprehended and punished offenders will refrain from future recidivism if they are definitely arrested and severely sanctioned. General deterrence refers to the government's ability to punish offenders, serving as an example to the public who have not yet engaged in criminality, thus discouraging them from doing so in the future.

The extant literature has shown that the three dimensions of deterrence generally are ineffective at inhibiting crime. One of the first studies that investigated deterrence theory was conducted in 1959 by Thorsten Sellin. The results of this study showed that the presence or absence of the death penalty had no effect on the homicide rate. Studies such as this have been one of the principal arguments against the use of the death penalty by the criminal justice system. Scholars generally have shown that the severity of punishment weakly impacts crime (Smith and Akers unpublished paper; Pratt et al. 2006). While the certainty

of punishment is statistically significant, it is also weak, with perceived certainty being slightly more robust (Pratt et al. 2006). That is, there will be a deterrent effect on individuals who are afraid of the legal sanctions for a crime regardless of the reality of these sanctions (Scheider 2001). There also appears to be an experiential effect, in which individuals who lack experience with committing criminal offenses have higher estimates of the certainty of being apprehended for participating in a criminal act than those who have experience (Paternoster 1987). Thus, if an individual is not punished after being caught this could explain the difference observed by this experiential effect, since there would be a lower perception of certainty (Stafor and Warr 1993). Thus, repeat players in the criminal justice system would be affected less by deterrence theory than individuals who have never or rarely experienced it. Finally, research has shown that the celerity of punishment has very little effect if any (Nagin and Pogarsky 2001).

It is important to remember that deterrence theory according to Beccaria and Bentham developed prior to American democracy and was principally a reaction to the autocratic rulers in Europe. The modern-day criminal justice system in America protects the rights of individuals and the due process of law. As a result, the aspects of celerity and certainty become more ambiguous, lacking ability to be greatly modified, thus diminishing their impact on inhibiting crime. Therefore it should not be a surprise that when the principal tenets of deterrence theory are tested in a country with a democratic political system the results are significantly weak at best.

The policy implications of deterrence theory have been well documented in recent American history. The primary effect has been the rapid increase in the number of prisoners, with 2.3 million in federal and state prisons and local jails, or one in 100 adults being incarcerated (Warren 2008). Along with an increase in incarceration of criminals, there has also been an enormous increase of individuals, currently a population of 5 million or one in 31, who are under the supervision of the criminal justice system through either probation or parole (Warren 2009). Since this rampant expansion of the prison industrial complex has taken place there have been no well-controlled evaluations researching how

this observed increase in deterrence has contributed to the changes in the crime rate. Other policy approaches using deterrence theory have been employed by law enforcement, with some promising significant effects on the policing of "hot spots" and driving under the influence (DUI) stops (Ross 1982; Sherman et al. 1998). Another popular approach used by the criminal justice system to deter youth has been the use of boot camps (Zhang 2000) and shock incarceration (Petrosino, Turpin-Petrosino, and Bueller 2006), both of which have produced little to no effect.

By the early nineteenth century, after many legal reforms following the American Revolution, French Revolution, and establishment of the US Constitution, there was still proliferation of crime. Several counter-arguments began to emerge that questioned the ability of hedonism to explain criminal behavior. Aggravating and mitigating circumstances became more important in accounting for individuals' criminal conduct. People felt less inclined to be convinced that bad laws created bad people. However, the causes of crime were still a question unanswered, requiring a more complex solution than was offered by the classical school. The school of criminology that followed was the positivists, focusing on the actions of criminals being determined by free will as opposed to being the resultant. The positivist school of criminology differed from the classical school by focusing on empirical research to ascertain that crime was the product of multiple factors. The original positivists emphasized the features of the criminal, such as the mind and body, that were readily available to measurement, while disregarding social factors that were outside of the individual.

While classical criminology became unpopular for some time, there was a resurgence of scholarly interest in the late twentieth century, in which several criminological theories built off of the classical school's interest in explaining human behavior. The emergence of these theories occurred during a period of conservatism in America, in which scholars were unsatisfied with the explanations that the discipline of criminology provided for the causes of crime and criminality. These criminological theories include rational choice, self-control theory, and routine activities.

SEE ALSO: Beccaria, Cesare; Bentham, Jeremy; Rational Choice Theory; Routine Activities and Crime; Self-Control Theory.

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