
SCHOOLS OF CRIMINOLOGY: A COMPARATIVE ANALYSIS

Zeba Darvesh, MIT-WPU, Faculty of Law, Pune

ABSTRACT

This research paper analyses and conceptualises the different schools of criminology prevalent during the 17th, 18th and the 19th century which was based upon the beliefs, rituals and the rationality of the people prevalent in that particular society. This article also deals in detail with the four schools of criminology and the theories which help in the development of understanding the causation of crime. Furthermore, this research paper consists of a demarcation between the four schools of criminology. The four schools of criminology cannot co-exist since each school has come up with a different approach and analysis to understand the nature of a criminal, to determine the reason for the causation of crime and the relation between crime and criminal. The different schools of Criminology are associated with well-known Criminologists such as Hippocrates, Socrates, Plato, Cesare Beccaria, Jeremy Bentham, Cesare Lombroso, Raffaele Garofalo and Enrico Terri amongst others. Each criminologist has come up with a different hypothesis relating to criminology and its aspects supported with research and scientific explanations.

Introduction

In order to deal with the aspect of the Schools in Criminology it is essential to understand the concept of Criminology which is in itself a body of knowledge which regards crime as a social phenomenon and the study of the causation of crime. During the 18th and the 19th century the Schools of Criminology gained popularity¹. The four major schools of criminology are the pre-classical school, the classical school, the neo-classical school and the positivist school. All the aforementioned schools of criminology defined the aspect of criminology in their own terms according to their beliefs, customs, knowledge and the prevalent time period².

Criminology is dated back to the period of Greek philosophers such as Hippocrates, Socrates, Plato and Aristotle. These philosophers described the crime of the criminal to a corrupted soul deriving from physical deformities in his body. The history of primitive societies and early medieval period reveals that human intellectual in those days was predominated by religion and superstitions therefore such beliefs dominated law and therefore, legal recourse was considered as the last resort. This implies that the mental aspect and the circumstances because of which such a crime was committed was ignored. Therefore, in the absence of a fair and equitable judiciary the criminal administration allotted punishments which were often arbitrary and irrational in nature. Thereafter, with the change in human thinking and evolution of modern society, the social reformers diverted their attention in order to develop a robust criminal justice system. In order to achieve such a goal, the emergency of criminology as a separate branch of knowledge by way of the different schools was evolved.

However, over time the focus was pre-dominantly upon the reason for the causation of crime and the mental aspect which is till today taken into consideration while granting punishments by the court of law.

Pre-classical School

The pre-classical school is commonly known as the demonological school for the sole reason that during the 17th century, the demonological theory flourished in Europe with the dominance of the church and religion. Since during this time, the scientific explanation was not given preference and, concept of crime was vague and based on superstitions and myths.

¹ Volume 24 James D. Unnever; Shaun L. Gabbidon “*Building a Black Criminology*” (2018)

² Tony Murphy “Criminology” (2019)

Hence, the explanations for criminal behaviour were sought through spirits, demons and unknown power. The principle behind such a concept was that a man commits a crime due to the stimulus of some external force or an evil spirit which is beyond the control and understanding of man and that he was possessed by such a spirit. The wrath of God and the natural agencies were considered to give punishment to the offenders. The offenders were subjected and had to go through battles, pelting of stones and was believed that no harm would be caused if the offender was innocent which was termed as the Ordeal test and was a method of torturing or subjecting the offender to severe torture to determine whether or not such an offender was guilty of the offence which he was charged with. 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"*. However, such practices were the most irrational according to the modern mind, they were universally accepted³.

This demonological theory of criminality or the pre-classical was based upon the omnipotence of spirit, which they regarded as a divine and superior power. The offender was made victim to the worships, sacrifices and ordeals by water and fire which were usually prescribed to determine the guilt of the offender. However, as the times developed people started analysing and questioning the demonological theory which led to the scientific development and therefore, led to the formation of the classical school of criminology.

Classical School

The pioneers and the scholars of the classical school of criminology are Cesare Beccaria, Jeremy Bentham and Romilly. The main belief of this school is that all men are self-seeking and therefore they attempt to commit the offence on account of the free will and not on account of being possessed by an evil spirit. According to the theory of this school, men possess free will and therefore, act as per their pleasure and in order to cause pain (hedonism) to the victim. The theory devised by the pre-classical school was rejected.

Beccaria, a renowned criminologist proposed that, the punishment of a crime that is decided should be proportionate and in accordance with its seriousness. This thought was based on the simple reason that torture was inappropriate and thus allowed the weak to incriminate and the strong would be found innocent before the adjudication because of social position. The ideology of Beccaria was supported by various criminologists that emphasises upon the

³ The Early Schools of Criminology and Modern Counterparts

criminal rather than the crime. The classical school focuses on the principle of deterrence instead of the retributive theory⁴.

The major drawback of the classical school was that it was based upon 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 or on the criminal. Another shortcoming of this school was that they prescribed equal punishments for same offence and created no distinction between first offenders and habitual criminals irrespective of the gravity of the offence. However, the greatest achievement of this school of criminology lies in the fact that it recognized and suggested for the development of a substantial and robust criminal policy which would overcome the barrier of allotting arbitrary punishments. Due to the theory devolved by Beccaria the earlier concepts of crime and criminals which were based on religious beliefs and myths were denounced and therefore, the emphasis was upon the criminal rather than the crime which eventually led to the need for concentrating on the personality of an offender in determine the causation of crime.

Neo-classical School

The 'free will' theory developed by the classical school did not survive for too long because of ignoring the individual differences under certain situations and treating first offenders and the habitual alike irrespective of the crime committed. The neo-classists asserted that certain categories of offenders such as minors, idiots, insane or incompetent had cannot be treated equally as a prudent man in matters of punishment irrespective of the similarity of their criminal act because these persons were incapable of understanding the nature or the conduct of the act committed. The Neo-classical school was greatly appreciated because of evolution of the theory of differentiating the aforementioned categories from the other criminals on the basis of their mental depravity was indeed a progressive step.

Thus, it would be seen that the main contribution of neo-classical school of criminology lies in the fact that the theory of classical school and suggested that an individual might commit criminal acts due to certain justifying circumstances and such situations must be taken under consideration while discharging the criminal liability. Therefore, along with the criminal act, the other factors such as the, the personality of the criminal, the motives, previous life, history, general character, etc., should not be lost while assessing his guilt. Today's jury system has

⁴ Beccaria, C. (1963). *On crimes and punishment* (H. Paulucci, Trans.). Indianapolis: Bobbs-Merrill. (Original work published 1764)

inculcated the approach of the Neo-classists by granting leniency to the aforementioned classes. As to the shortcomings of neo-classical school of criminology, it believed that criminals are a nuisance to the society and therefore, must be expelled.

Positivist School

The earlier schools focussed on the crime rather than the criminal therefore, this school was the beginning of a new era wherein the focus was on the criminal and the various reasons leading to the causation of crime. The real cause of criminality lay in anthropological features of the criminal which helps in demonstrating the functioning of brain in order to establish a co-relationship between criminality and the structure and functioning of brain. The main exponents of this school were three eminent Italian criminologists, namely, Cesare Lombroso, Raffaele Garofalo and Enrico Terri and therefore, it is known as the Italian School of Criminology.

Lombroso conducted an intensive study of the physical characteristics of his patients and later on of criminals, and he came to a definite conclusion that criminals were physically inferior because of which they developed a tendency for inferior acts. Lombroso's theory devised that there were 3 kinds of criminals: a) The Atavists or hereditary criminals. —Lombroso also termed them as born criminals. In his opinion born-criminals could not refrain from committing crimes because they aspect of criminality was hereditary in nature and he termed such a class at the Atavists. He, therefore, considered these criminals beyond reformation. Insane Criminals. —The second category of criminals according to Lombroso consisted of insane criminals who are unable to understand the nature and conduct of their act on account of mental depravity or disorder. (iii) Criminoids. —Lombroso devised the third category of criminals which were deemed as criminoids who had devised a physical criminal type and had a tendency to commit crime in order to overcome their inferiority complex in order to survive in the society. Even though, Lombroso's theory was not accepted in the earlier centuries but was widely appreciated however, with the focus being shifted upon the criminal rather than the crime, the Atavist theory of Lombroso was rejected upon the sole reason that no criminal is beyond reformation⁵.

The major contribution of Ferri to the field of criminology is his theory of "Law of Criminal Saturation". This theory presupposes that the crime is basically the produce of three main

⁵ Lombroso, C. (1876). Criminal man. Milan: Hoepli.

factors: — (1) Physical or geographical; (2) Anthropological; and (3) Psychological or social. Thus, Ferri emphasised that criminal behaviour is an outcome of a variety of factors which have effect upon such an offender and instigate him to commit a certain offence. According to him social change, which is inevitable in a dynamic society; results in disharmony, conflict and cultural variations but change cannot be avoided. Ferri classified the criminals into 5 types mainly: (1) born criminals; (2) occasional criminals; (3) passionate criminals; (4) insane criminals; and (5) habitual criminals. He suggested an intensive programme of crime prevention and recommended a series of measures for treatment of offenders and therefore, believed in the rehabilitation and reformation of the criminal⁶.

Raffaele Garofalo was one of the three main exponents of positive school of criminology, he emphasised that lack of pity generates crimes against person while lack of probity leads to crimes against property. He placed criminals mainly into four categories, namely: (1) murderers (2) violent criminals who are affected by environmental influences such as prejudices of honour, politics and religion; (3) criminals lacking in sentiment of probity; and (4) lascivious or lustful criminals who commit crimes against sex and chastity⁷.

Comparative Analysis of the Schools of Criminology

As stated above each school of criminology deals with a different theory therefore, it is essential to create a demarcation between the schools.

Pre-classical and Classical school

The Pre-classical school was based on the demonological theory which states that a man is incapable of committing crime and when he does so it shall be presumed that such a crime has been committed because the offender has been possessed by a demon or an evil spirits which compels such a person to commit crime whereas, the Classical school rejected the demonological or Pre-classical school theory and was based upon the 'free will' theory which states that offender commits crime upon his free will for the sole reason to receive pleasure and cause pain to the victim. The Pre-classical school believed in subjecting the offender to extreme and severe torture by way of Ordeals in order to formulate the guilt of the offender however, the classical school believed in subjecting the offender to torture but by way of harsh punishments and that it suggested a substantial criminal policy which was easy to administer

⁶ Enrico Ferri "*The Positive School of Criminology*" on 13 August 2009

⁷ Garofalo, R. (1968). *Criminology*. Montclair, NJ: Patterson Smith. (Original work published 1885)

without resort to the imposition of arbitrary punishment. Therefore, classical school was against granting of arbitrary punishment by the judiciary and confined the judiciary within its four walls. Another point of difference is that the pre-classical had no existence of scientific explanation and was solely based upon the omnipotence of the demon whereas, the classical school was based upon scientific explanation and rationality.

A point of similarity between the aforementioned schools is that both of the schools placed reliance upon the crime rather than the criminal therefore, ignoring the mental aspect and the true reason for the causation of crime.

Classical and Positive School

The classical school defined law in the legal terms whereas, the Positive law school rejected the legal definition rather adopted the sociological definition of law. The classical school placed reliance upon the theory that crime committed by a person is solely based on the free will of such a person whereas, the Positive school placed reliance upon the anthropological features of the criminal. The classical school focussed upon the crime rather than the criminal which restricted the scope for reformation whereas, the positive school focusses upon the criminal rather than the crime which helps in understanding the nature and mental element of the criminal thereby, helping in deciding the liability of such an offender and the correct method adopted for reformation and rehabilitation. The main exponents of classical school were Beccaria and Bentham whereas, the main exponents of Positive School were Lambroso, Ferri and Garofalo. In the 18th century attempts were made to enhance and reform the criminal justice system in order to protect criminals against arbitrary discretion of judges who imparted punishments without applying their judicial mind. Whereas, it was a 19th century doctrine which emphasized on scientific method of study and imparted emphasis upon criminal and shifted focus from retribution to corrective method of treatment. Therefore, it can be concluded that the time period, the theorist as well as the theory adopted in the Classical school and Positive school was completely different from one another.

Pre-classical and Positive school

The aforementioned schools differed from one another in various aspects, the pre-classical based on the demonological theory which states that a man is incapable of committing crime and when he does so it shall be presumed that such a crime has been committed because the offender has been possessed by a demon or an evil spirit which compels such a person to

commit crime whereas, the Positive school placed reliance upon the anthropological features of a criminal. The Pre-classical school ignored the true reason for the causation of crime and ignored the mental aspect of the criminal therefore, the reliance was upon the crime rather than the criminal on the other hand, the Positive school emphasised the importance upon the personality of the criminal, the mental aspect, the true reason for the causation of crime thereby placing reliance upon the criminal rather than the crime. The pre-classical and the Positive school had completely different approaches not just upon the theories but also the method of punishments, the pre-classical school made the offenders undergo through battles, pelting of stones and was believed that no harm would be caused if the offender was innocent which could be traced by the Ordeal test which was a method of torturing or subjecting the offender to severe torture to determine whether or not such an offender was guilty of the offence which he was charged with, whereas the Positive school completely rejected and opposed the Ordeal test and emphasised on the Reformation Theory which believed in reforming and the rehabilitation of the offender back into the society rather than mere punishment for the sake of vengeance⁸.

Pre-classical and Neo-classical school

The difference between the afore-mentioned school revolves mainly around the theory adopted of demonology (in pre-classical) and determinism (Neo-classical). The Pre-classical as stated above determined the guilt of the offender upon the Ordeals which was severe torture but the Neo-classical school was against such torture and termed it as unjust and unfair and the mitigating factors like physical and social environment where the individual was placed must be considered while discharging the criminal liability.

Classical and Neo-classical school

While, the classical school based its theory upon the free will concept stating that every offender commits crime for the sole reason of receiving pleasure and causing pain to the victim on account of his own free will whereas, the Neo-classical school created a difference between total free will and determinism and argues that, no person has total free will. The neo classical school allows for mitigating factors to be considered while determining the guilt of an offender. The classical school imparted equal punishments to all irrespective of the crime committed, the neo-classical school saw this as unjust and unfair and thus allowed for change to transpire. This

⁸ Glory Nirmala.k “Criminology” (2019)

theory allows for the consideration of mitigating factors like physical and social environment where the individual was placed and the factors leading up to the causation of crime⁹.

Neo-classical and Positive school

The Neo-classical school and the positive school did not differ much in their theory however, the only aspect of difference was that the Neo-classical school considered the physical and social environment where the individual was placed and the Positive school considered the anthropological or the personality traits and the mental element to determine the criminal liability of the offender.

Conclusion

Criminology is a well-recognised concept and helps in adjudicating the criminal liability of the offender. The different schools of criminology defined the term crime according to the rationality of the society then and devised theories based upon it. Each theory in itself considered different factors for the causation of crime and allotted punishments based on such reasons¹⁰.

⁹ KATELYNN TORRENCE “*Schools of Criminology*”

¹⁰ Bentham (1789/1948, p. 151).