



A comprehensive study of the classical school of criminology

¹ Dr. Sant Lal Nirvaan, ² Nikita Goel

¹ Assistant Professor, Institute of Law, Kurukshetra University, Kurukshetra, Haryana, India

² LLB, Institute of Law, Kurukshetra University, Kurukshetra, Haryana, India

Abstract

The classical school of criminology was developed in the eighteenth century. There were two main contributors to this theory of criminology and they were Jeremy Bentham and Cesare de Beccaria. They are seen as the most important enlightenment thinkers in the area of 'classical' thinking and are considered the founding fathers of the classical school of criminology. Bentham's contribution to 'classical' theory is based on the fact that he was a utilitarian, interested in the happiness and well being of the population and therefore believing that punishment, in the form of the infliction of pain, should always be justified in terms of a greater good. At the heart of Bentham's writing was the idea that human behaviour is directed at maximizing pleasure and minimizing pain, (the pleasure-pain principle). Beccaria believed that laws needed to be put into place in order to make punishments consistent and in line with the crime. He believed that crime prevention in its effectiveness is down to three main ideas, these being the certainty of the crime and how it is likely to happen, the celerity of the crime and how quickly the punishment is inflicted and also the severity of the crime, and how much pain is inflicted. Beccaria thought that the severity of the penalties given should be proportionate to the crime committed and no more than what is necessary in order to deter the offender and others from committing further crimes. This is the reason behind the death penalty being viewed by classical thinkers such as Beccaria and Bentham as pointless, because there would be no deterrent. However when considering manslaughter, as Bentham also believes, if the severity of the punishment should slightly outweigh the crime then surely capital punishment should be used, there doesn't seem to be any stronger a deterrent to other criminals thinking of undertaking the same criminal behaviour, than seeing another eradicated due to their actions. Classical thinking has had a significant impact on criminological thinking in general and perhaps a greater impact on criminal justice practise. Since the introduction of the classical school of criminology and classical thinking, the use of capital punishment, torture and corporal punishment has declined.

Keywords: beccaria, cesare, bentham, jeremy, classical school of criminology, criminology, deterrence, deterrence theory, economic model of crime, felicitous calculus, rational choice theory, routine activities theory (RAT), utilitarianism

Introduction

The term 'Criminology' is the amalgamation of two terms 'Crime' and 'Logy'- 'Crime' is derived from the Latin term 'Crimen' which means an offence or social wrong which is forbidden by law under the pain of some punishment. 'Logy' is an English suffix which means scientific study or a branch of a study of a particular subject.

Criminology involves three different types of problems:^[1]

1. *The field of criminalistics* i.e. The problem of detecting the law breaker, which is the work of the detective, the police officer, the medical specialist, the chemist.
2. *Work of the penologist* i.e. The problem of the custody and treatment of the offender once he is detected and legally judged to be guilty. Social workers, psychiatrists, sociologists, psychologists, juvenile court judges, probation and parole officers, and others are engaged in correction work in connection with the prevention and control of delinquency and crime.
3. *The problem of explaining crime and criminal behavior* i.e. the problem of scientifically accounting for the presence of crime and criminals in a society. The legal aspect of crime is of interest to the lawyer and to the sociologist who is studying the sociology of criminal law.

The explanation of criminal behavior is of interest to the sociologist, the psychologist, the psychiatrist, the anthropologist, and the biologist.

There can be no society without the problem of crime, so the science of criminology developed consequently, to restore the social order and for the realization of the saying 'Live and Let Live'. We tend to find explanations of cause of crime in several things- like sin, spirit, disease and what not; accordingly there are six schools of criminology- Pre-Classical School, Classical School, Neo-Classical School, Positive School, Sociological School and Multi-Factor School. Natural explanations of crime make use of object and events in the material world to account for what happens. Among the Greeks, Hippocrates (460 BC) provided a physiological explanation of thinking by arguing that the brain is the organ of the mind. Democritus (420 BC) proposed the idea of an indestructible unit of matter called the atom as central to his explanation of the world around him. With Socrates, Plato, and Aristotle, the ideas of unity and continuity came to the fore, but the essential factors in all explanations remained physical and material. In Roman law, the Hebrew doctrine of divine sanction for law and order merged with Greek

naturalism to provide a justification based on the “nature of things.” Modern social science continues this natural emphasis; social scientists seek their explanations within the physical and material world^[2]. Attempts to explain crime date back through many centuries of recorded history. During the sixteenth and seventeenth centuries, for example, people who engaged in crime and other forms of deviant behavior were thought to be possessed by demons or evil spirits. Exorcism and banishment were among the treatments against crime. At the same time, victims of crime might view their loss as divine retribution for some wrong that they or a family member had committed in the past.

In the eighteenth and nineteenth centuries, the sciences such as philosophy, theology, medicine, and psychiatry were in vogue. In the twentieth and twenty-first centuries, then criminology developed consequently. Writers from earlier schools of criminological thought were not primarily concerned with developing generalizations about crime, criminal behavior, and the relationship between varying crime rates and social conditions. Instead, most early scholars who developed theories about crime causation did so, as the criminologist Donald R. Cressey has stated, “In an attempt to find a panacea for criminality^[3].” He also indicated that early writers made few, if any, efforts to “verify the many theological or moralistic assertions by actually investigating relevant situations; writers usually selected a general ‘cause’ of all criminality and then sought to convince their readers that elimination of that cause would eradicate crime both by reforming criminals and by preventing future criminality.” Even though writers and philosophers for many centuries have expressed interest in criminal behavior, criminologists have traditionally marked the beginning of the discipline of criminology with the establishment of the classical school of criminology, which purports that people rationally choose to commit criminal acts. The classical school of criminology was developed by Cesare Beccaria and Jeremy Bentham in response to the primitive and cruel European justice system that existed prior to the French Revolution of 1789.

Leaders of the classical school about two hundred years ago proposed a number of legal and judicial reforms premised along these lines to curb the problem of crime in their day. These reforms included the imposition of penalties and deterrents severe enough to outweigh any pleasure encountered through the commission of a criminal act. It was thought that people would willingly refrain from crime once they had calculated that the penalties attached to it would exceed the pleasure involved in the act itself. Because factors far beyond personal calculation and motivation are involved in the manifestation of crime, however, proposals such as these had little effect on the crime problem. Before examining Beccaria’s ideas and contributions to criminology, one should understand that the classical school has its roots in the idea that people who commit crime choose to do so after weighing the consequences of their actions. Classical theory is based on the following three assumptions:

1. Every person has ‘free will’ to make a choice between getting what we want legally or illegally^[4].
2. The ‘fear of punishment’ can deter a person from committing a criminal act.
3. ‘Pleasure and Pain’ i.e. the community or society can

control criminal and non-criminal behavior by making the pain of punishment and penalties more severe than the pleasure from criminal activities and their gains.

Classical Theorists

Cesare Beccaria (1738–1794)

Cesare Beccaria, a major contributor to the classical school of criminology, was born in Milan, Italy, on March 15, 1738, and died in 1794. Born an aristocrat, he studied in Parma and graduated from the University of Pavia.³ In 1763, the protector of prisons, Pietro Verri, gave his friend Beccaria an assignment that would eventually become, “*Dei delitti e delle pene*” (the Essay On Crimes and Punishment) (1963, originally 1767), a highly influential book which was translated into 22 languages and had an enormous impact on European and US legal thought^[5]. It was completed in January, 1764, and first published anonymously in July of that year. The article caused a sensation, but not everybody liked it. The fact that it was first published anonymously suggested that “its contents were designed to undermine many if not all of the cherished beliefs of those in a position to determine the fate of those accused and convicted of crime.... [An] attack on the prevailing systems for the administration of criminal justice... it aroused the hostility and resistance of those who stood to gain by the perpetuation of the barbaric and archaic penological institutions of the day^[6].”

In common with many of his contemporary intellectuals and inspired by social contract theories, Beccaria was strongly opposed to the many inconsistencies that existed in government and public affairs, and his major text was essentially the first attempt at presenting a systematic, consistent and logical penal system. Beccaria considered that criminals owe a ‘debt’ to society and proposed that punishments should be fixed strictly in proportion to the seriousness of the crime. Torture was considered a useless method of criminal investigation, as well as being barbaric. Moreover, capital punishment was considered to be unnecessary with a life sentence of hard labour preferable, both as a punishment and deterrent. The use of imprisonment should thus be greatly extended, the conditions of prisons improved with better physical care provided and inmates should be segregated on the basis of gender, age and degree of criminality. Beccaria was a very strong supporter of ‘social contract’ theory with its emphasis on the notion that individuals can only be legitimately bound to society if they have given their consent to the societal arrangements. It is nevertheless the law that provides the necessary conditions for the social contract and punishment exists only to defend the liberties of individuals against those who would interfere with them. Beccaria’s theory of criminal behaviour is based on the concepts of free will and hedonism where it is proposed that all human behaviour is essentially purposive and based on the pleasure-pain principle^[7].

Beccaria stated that; ‘it is better to prevent crimes than to punish them^[8]’.

Eighteenth-century criminal law

Cesare Beccaria, a major contributor to the classical school of criminology, responded to eighteenth-century criminal law, which was repressive, uncertain, and barbaric. Eighteenth

century criminal law was repressive, uncertain, and barbaric. It also permitted, as well as encouraged, abusive and arbitrary practices. The law gave public officials unlimited power to deprive people of their freedom, property, and life with no regard to principles embodied in the concept “due process of law”.

Secret accusations were in vogue and persons were imprisoned on the flimsiest of evidence. Torture, ingenious and horrible, was employed to wrench confessions from the recalcitrant. Judges were permitted to exercise unlimited discretion in punishing those convicted of crime. The sentences imposed were arbitrary, inconsistent, and depended upon the status and power of the convicted. In practice no distinction was made between the accused and the convicted. Both were detained in the same institution and subjected to the same horrors of incarceration. This same practice prevailed in regard to the convicted young and old, the murderer and the bankrupt, first offenders and hardened criminals, men and women. All such categories of persons were promiscuously thrown together, free to intermingle and interact^[9].

The preceding description applies to the status of criminal law when Beccaria wrote his essay on crime. It helps us to understand why his essay was considered humane and revolutionary in character. For Beccaria, it was bad laws, not evil people that were the root of the crime problem. A modern system of law that guaranteed people equal treatment was needed to replace the old, unenlightened criminal justice system of his time.

Social contract theory

Beccaria's expositions had its roots in social contract theory, which stresses the idea that people were originally without government. People then created the state through a “social contract,” by which they surrendered many of their “natural liberties.” In return, people received the security that government could provide “against antisocial acts.” Beccaria wrote, “Laws are the conditions under which independent and isolated men united to form a society. Weary of living in a continual state of war, and of enjoying a liberty rendered useless by the uncertainty of preserving it, they sacrificed a part so that they might enjoy the rest of it in peace and safety^[10]. The sum of all these portions of liberty sacrificed by each for his own good constitutes the sovereignty of a nation, and their legitimate depository and administrator is the sovereign^[11].”

Pleasure, pain, and punishment

Beccaria expounded the principle of ‘*Pleasure and Pain*’ for punishment. For him, pleasure and pain were the only “springs of action” in people who are in possession of their senses: “If an equal punishment be ordained for two crimes that injure society in different degrees, there is nothing to deter men from committing the greater [crime] as often as it is attended with greater advantage^[12].” He believed that the punishment and penalties should be imposed on the guilty according to a scale determined by the degree of danger that the given crime poses for the community: “If mathematical calculation could be applied to the obscure and infinite combinations of human actions, there might be a corresponding scale of punishments descending from the greatest to the least^[13].” With such an

exact scale of crimes and punishments, people would know which penalties were attached to which criminal acts.

Beccaria believed that the purpose of punishment was to prevent a criminal from doing any further injury to the community or society and also to prevent others from committing similar crimes. These purposes required setting penalties that would make strong and lasting impressions on others with the “least torment to the body of the criminal.” Punishment should be no more severe than deemed necessary to deter individuals from committing crimes against others or the state. Maximizing the preventive, or deterrent, effect would be achieved by prompt, effective, and certain punishment: “The more promptly and the more closely punishment follows upon the commission of a crime, the more just and useful will it be.... I have said that the promptness of punishments is more useful because when the length of time that passes between the punishment and misdeed is less, so much stronger and more lasting in the human mind is the association of these two ideas, crime and punishment; they then come insensibly to be considered, one as the cause, the other as the necessary inevitable effect^[14].” He proposed that the rich should be punished in the same way as the poor, and that both torture to obtain confessions and capital punishment should be abolished, Beccaria concluded: “So that any punishment be not an act of violence of one or of many against the other, it is essential that it be public, prompt, necessary, [as] minimal in severity as possible under given circumstances, proportional to the crime, and prescribed by the laws^[15].”

Jeremy Bentham

Jeremy Bentham, the British philosopher was an influential early classical theorist, born in 1748. He believed that people have the ability to choose right from wrong, good from evil. He expounded that criminal behavior included the idea that people are basically hedonistic, that is, they desire a high degree of pleasure and tend to avoid pain. People who choose to commit criminal acts think they stand to gain more than they risk losing by committing the crime. Bentham believed that the criminal justice system should deter people from making this choice.

Utilitarianism

Bentham's perspectives on human behavior had its roots in the concept of utilitarianism, which assumes that all of a person's actions are calculated. The Doctrine of Utilitarianism lead to the exploration that the purpose of all actions should be to bring about the greatest happiness for the greatest number of people. For Bentham, people calculate actions in accordance with their likelihood of obtaining pleasure or pain. Bentham stated that an act possesses utility if it “tends to produce benefit, advantage, pleasure, good or happiness (all this in the present case comes to the same thing) or (which again comes to the same thing) to prevent the happening of mischief, pain, evil or unhappiness to the party whose interest is considered^[16].” Bentham developed a felicitous calculus, or moral calculus, for estimating the probability that a person will engage in a particular kind of behavior. He expounded that people weigh the possibility that a particular behavior pattern or action will cause current or future pleasure against the

possibility that it will cause current or future pain. Bentham believed that people are prompted by the pleasure that the person anticipated from the criminal act was much greater than the subsequent pain that might be expected from it.

The greatest happiness and social control

Bentham expounded a comprehensive code of ethics and placed much emphasis on the practical problem of decreasing the crime problem. He aimed at a system of social control which is a method of checking the behavior of people according to the ethical principle of utilitarianism. He believed that an act should be judged not by an “irrational system of absolutes but by a supposedly verifiable principle. The principle was that of ‘the greatest happiness for the greatest number’ or simply ‘the greatest happiness.’” For Bentham, checks or sanctions needed to be attached to the criminal behavior which could be set up by legislation, which would then serve “to bring the individual’s pursuit of his own happiness in line with the best interests of the society as a whole ^[17].” Bentham believed that punishment was a necessary evil so as to prevent greater evils from being inflicted on the society and thus diminishing happiness. Social control based on degrees of punishment that both fit the crime and discourage offending is part of our system of criminal justice today.

Influences of the classical school

1. The U.S. Bill of Rights is rooted in Beccaria’s writings. Beccaria’s groundbreaking essay strongly influenced the first ten amendments (the Bill of Rights) to the United States Constitution. It was of primary importance in “paving the way for penal reform for approximately the last two centuries.”
2. The work of Beccaria greatly influenced the French penal code adopted in 1791, Russian law at the time of Catherine the Great, Austrian law during the reign of Emperor Joseph II, and Prussian law during the reign of Frederick the Great.
3. By expounding that the goal of punishment is to deter criminal behavior in people, Beccaria reflected Jeremy Bentham’s utilitarian concepts of free will and hedonism. These classical theorists argued that the proper objective of punishment should be to protect society and its laws. It was their view that punishment should not be inflicted for vengeance; rather, the primary purpose of punishment should be the reduction or deterrence of crime. They advocated that the excessively brutal punishments of mutilation and death be abolished and that penal reforms be introduced so that the punishment fit the crime.
4. Beccaria added convincing plea for imprisonment as a form of punishment, stating it would be the most effective and efficient method for carrying out punishment. Thus, the classical theorists influenced the development of the modern correctional system.

Theories Emerged out of Classical School

• Rational choice theory

For rational choice theorists, a criminal rationally chooses the crime to commit and the target of crime ^[18]. A recent reformulation and integration of earlier classical and positivist

theory is found in rational choice theory. Developed by Derek Cornish and Ronald Clarke, rational choice theory focuses on the situational aspects of criminal behavior. Rational choice (or situational) theory stresses the point that society can achieve a high degree of crime prevention by focusing on the situational aspects that influence particular types of criminal behavior. As per the rational choice theory, a criminal rationally chooses both the crime to commit and the target of the crime ^[19]. In other words, the criminal, does not randomly select his or her target.

• Deterrence Theory

Deterrence theory suggests that an individual’s choice to commit or not commit a crime is influenced by the fear of punishment. Deterrence is the act of preventing a criminal act before it occurs, through the threat of punishment and sanctions. Rooted in the classical perspective, deterrence theory focuses on the following premises:

1. For punishment to be a deterrent to criminal behavior, it must be certain, swift, and severe.
2. The severity must be sufficient to outweigh any rewards that the criminal may obtain from a criminal act.

The crime rates should decline if there is an increase in the rates of arrest, conviction, and severity of punishment due to the deterrent effect. Deterrence theory includes the idea that forced retribution for a crime should reduce crime rates. Retribution is the notion that a wrongdoer should be forced to “pay back” or compensate for his or her criminal acts. During the 1970s and into the 1980s, there was a return to Retributivism in the justice model. The concept of “*just deserts*,” is the pivotal basis of the justice model. *Just deserts* is a justice perspective which provides that whoever violate others’ rights deserve to be punished. The severity of the punishment should also be commensurate with the seriousness of the crime. In addition to returning to the justice model, the United States in the 1970s and 1980s reverted to a utilitarian punishment philosophy to deal with crime.

• An economic model of crime

Akin to earlier classical theories and the modern rational choice theory, the economic model of crime is based on the assumption that a person chooses to commit crime. The economic model assumes that whenever confronted with the same alternatives, a person will choose the same course of action. In other words, criminal behavior follows a calculation whereby criminals explore the perceived costs, rewards, and risks of alternative actions.

• Routine Activities Theory (RAT)

Routine activities theory stresses the idea that criminals balance the costs and benefits of committing crimes. Classical theorists explain crime as a rational course of action by offenders who seek to minimize pain and maximize pleasure. Routine activities theory is a product of the classical approach. Routine activities theory (RAT) stresses the idea that criminals are not impulsive or unpredictable, because they balance the costs as well as benefits of committing crimes ^[20]. In an analysis of crime and routine activities, Lawrence E. Cohen and Marcus Felson consider the trends in crime rates in

terms of the changing routine activities of everyday life. RAT explains why crime and delinquency occur in particular places under specific conditions. It does this by focusing on the convergence of motivated offenders, suitable targets, and the absence of capable guardians against a violation. RAT assumes that-

1. Self-interest motivates criminal offenders to commit criminal acts;
2. Many individuals may be motivated to break laws^[21].

Suitable targets may be things that are valued (e.g., jewelry, cars, or cash) or people who, when assaulted, provide positive rewards or pleasure to the perpetrator. Guardians are defined as objects (e.g. gates, surveillance cameras, or burglar or auto alarms) or individuals (e.g., guards or police) who are capable of protecting possible targets or victims. To the offender, the presence of protective guardians raises crime costs and lessens target attractiveness. RAT studies focus on direct-contact predatory violations—illegal acts in which “someone definitely and intentionally takes or damages the person or property of another.” Focusing on crime events and not on criminal offenders themselves, RAT examines how structural changes in everyday activity patterns influence crime rates by affecting the convergence in time and space of three requisite conditions for a crime to occur. These three conditions include-

1. A perpetrator;
2. A victim and/or an object of property (criminal victimization increases when motivated offenders and targets converge);
3. A relationship or an opportunity (criminal victimization decreases with the presence of capable guardians).

The limitation of classicism

1. The philosophy of the Classical theorists was reflected in the Declaration of the Rights of Man in 1789 and the French Penal Code of 1791, the body of criminal law introduced in the aftermath of the French Revolution. The authors of these documents had themselves been inspired by the writings of the major Enlightenment philosophers, notably Rousseau. It was nevertheless attempts such as these to put these ideas of the Classical School into practice that exposed the inherent problems of its philosophy of criminal justice.
2. The Classical theorists had deliberately and completely ignored differences between individuals.
3. First offenders and recidivists were treated exactly alike and solely on the basis of the particular act that had been committed. Children, the ‘feeble-minded’ and the insane were all treated as if they were fully rational and competent.
4. The new French post revolutionary criminal code was revised in 1810, and again in 1819, to allow judges some latitude in deciding sentences. It was thus in this way that the strict, formal, philosophical elegance of the Classical model was to be breached.
5. It was to become increasingly recognised that people are not equally responsible for their actions and as a result a whole range of experts gradually came to be invited into the courts to pass opinion on the degree of reason that

could be expected of the accused. Judges were now able to vary sentences in accordance with the degree of individual culpability argued by these expert witnesses and it was this theoretical compromise that was to lead to the emergence of a modified criminological perspective that came to be termed the neo-Classical School^[22].

Conclusion

The classical school of criminology was developed in the eighteenth century. It emerged in response to the cruel forms of punishment that dominated at the time. It is considered that writers such as Montesquieu and Voltaire encouraged perhaps the emergence of this new ‘classical’ thinking, by becoming involved in campaigns for more enlightened approaches to be taken towards crime and the punishment given by the justice systems at the time. There were two main contributors to this theory of criminology and they were Jeremy Bentham and Cesare de Beccaria. They are seen as the most important enlightenment thinkers in the area of ‘classical’ thinking and are considered the founding fathers of the classical school of criminology. They both sought to reduce the harshness of eighteenth century judicial systems, even though coming from different philosophical stances. Classical thinking says that criminals make a rational choice, and choose to do criminal acts due to maximum pleasure and minimum pain. The classical school says criminals are rational, they weigh up the costs and therefore we should create deterrents which slightly outweigh what would be gained from the crime. This is the reason behind the death penalty being viewed by classical thinkers such as Beccaria and Bentham as pointless, because there would be no deterrent. However when considering manslaughter, as Bentham also believes, if the severity of the punishment should slightly outweigh the crime then surely capital punishment should be used, there doesn't seem to be any stronger a deterrent to other criminals thinking of undertaking the same criminal behaviour, than seeing another eradicated due to their actions. Since the introduction of the classical school of criminology and classical thinking, the use of capital punishment, torture and corporal punishment has declined. Neither Beccaria nor Bentham believed in the death penalty, apart from, Bentham argued, in the case of murder.

Many elements of classical ideas are very useful in modern society and these show the strengths that the theory does have. Deterrence continues to underlie all judicial systems and indeed underpinned the principles of the first commissioners of Sir Robert Peel, in the creation of the Metropolitan police. Prisons are also used as major deterrents and also to try and reduce rates of crime.

As modernity has progressed so has the development of the judicial systems, if positivism was used as the main criminological thinking then these systems wouldn't exist because positivism uses treatments to the criminal in order to solve crime. This could be why the classical school of criminology has been so influential and still is, because it protects various organisations set out to remove crime and it also provides a good theoretical basis on which more recent theories have been developed.

It can be said- “Crime is a choice.....an exploration of criminal thinking and motivation.”

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