

LECTURE 1 – Introduction to Crime and Criminal Justice: An Overview of the Unit

Introduction to the Unit

- By the end of this unit you should be able to:
 - Define the concepts central to crime and criminal justice
 - Summarise the benefits and limitations of theories, debates and policy developments in relation to crime through reference to relevant academic theatre and policy sources as appropriate; and
 - Identify and describe a range of stakeholders involved in responding to crime, the criminal justice process, these stakeholders' roles and responsibilities and relationships between them.

Key Points with Assessments and Work (Everything is important)

What are the Key Readings and Resources for this Unit?

- Learning Guide
- Keep up to date with Criminal Justice developments via credible websites.

Assessment 3: 1,500 Word Essay (40%)

- Essay Question: The “discovering of the victim”, and a shift in focus from the offender to the offence, have both been identified as key features of crime policy over the last 30 years. How are these developments related to changes in your understandings of what causes crime?

Make sure that you discuss the following in your answer:

- The positivism vs the classical school of thought
- Changes in your understanding of what causes crime
- Official vs unofficial data
- Different definitions of crime

Assessment 4: Exam (40%)

- Based on lecture content, workbooks, readings and more

LECTURE 2 – Understanding: Classical and Positivist Schools of Thought

Aims

- In this lecture:
 - A brief discussion of the impact of the 'Enlightenment' and what we mean by 'policy implications'
 - An overview of classical and positivist schools of criminological thought
 - Key premises/assumptions about the causes of crime
 - Key thinkers
 - Key theories
 - Policy implications

The Enlightenment and a Few Words on 'Policy Implications'

Pre-Classical Notions of Crime and Criminals

- Prior to the eighteenth century, explanations of a wide variety of phenomena tended to be of a religious or spiritual nature (Waklate 2007)
- Demonological explanations of crime began to wane in the 18th Century with the beginning of a period of historians called 'The Enlightenment' (Carrabine et. al., 2014)
- Enlightenment thinkers focused on the dignity and worth of the individual (Walsh 2006)
 - A view that would eventually find expression in the law and the treatment of criminal offenders.

Connecting Criminological Theory and Social Policy

- Theories of crime causation imply that changing the conditions that theory holds responsible for causing crime can reduce it and prevent it (Walsh 2006) – (They lead to actions to resolve crime)
- Every theory has policy implications deducible from its primary assumptions and propositions (there are observations, a theory explains those observations and gives an understanding to them, and that understanding is going to lead to an action to a social policy to a way of solving it)
- Policy
 - A course of action designed to solve some problem that has been selected from among alternative courses of action
- A good theory should offer useful practical policy recommendations

The Classical Scholars

- Modern criminology is the product of two main schools of thought:
 - The classical school of originating in the 18th century (1700s); and
 - The positivist school originating in the 19th century (1800s).

The Classical School of Thought (The rational actor and free will)

Key Premises of the Classical School:

- All persons are equal before the law
- Everyone possesses the free will to decide between right and wrong
- People are motivated to pleasure to commit crimes and avoid pain
- The emphasis is on the crime itself
- Punishment is essential in order to control criminal behaviour

- Punishment must be proportionate to the crime and has to be just and fair

Theorists

Cesare Beccaria

- The 'father' of classical criminology is generally considered to be Cesare Bonesana Marchese di Beccaria
 - Dei Deitti e della Pene (On Crimes and Punishment) (1764)
- Beccaria did not question the need for punishment, but he believed that
 - Laws should be designed to preserve public safety and order, not to avenge crime
- To ensure a rational and fair penal structure, he argued
 - Punishments for specific crimes must be decreed by written criminal codes and the discretionary powers of judges severely curtailed

Jeremy Bentham

- Principles of Morals and Legislation – Book (1789)
 - A philosophy of social control based on the principle of *utility*, which prescribed
 - ✚ 'The greatest happiness for the greatest number'
 - ✚ All human action should be judged moral or immoral by its effect on the happiness of the community
 - Hedonism (seeking pleasure) seen as the single most important motivating factor of human action
 - ✚ A doctrine with the central tenet that the achievement of pleasure or happiness is the main goal of life

Jeremy Bentham and Human Nature

- Rational behaviour is behaviour that is consistent with logic
- Hedonism and rationality are combined in concept of the 'hedonistic calculus'
 - A method by which individuals are assumed to logically weigh the anticipated benefits of a given course of action against its possible costs
- Free will enables human beings to purposely and deliberately choose to follow a calculated course of action
- If crime is to be deterred, punishment (pain) must exceed the pleasures gained from the fruits of crime

Neo-Classical Thinkers

- Man acting on reason and intelligence is responsible for conduct
 - **BUT** those lacking in normal intelligence or who suffer from mental depravity (such as minors, idiots, insane or incompetent) are not responsible for conduct because they are incapable of understanding difference between right and wrong
- Concentrated on the conditions under which an individual commits crime, most prominent theories:
 - Rational choice theory
 - Routine activities theory

Rational Choice Theory (Cornish and Clarke 1986)

- Rational choice theorists believe that offenders attempt to gain some benefit from their criminal actions

- Decisions and choices are limited by time, ability and availability of information (Cornish and Clarke 1986 : 1)
- The main emphasis is on the offence and not the offender – particular attention is paid to the situational factors which influence offending (Fattah 1993 : 239)
- A distinction is made between criminal involvement (the decision to become involved) and criminal events (the immediate circumstances and situation in which offending takes place)
- It recognises the commonplace, opportunistic nature of many offences
- Thus, under this perspective, criminal acts are specific examples of the general principle that all human behaviour reflects the rational pursuit of maximizing utility

Routine and Activities Theory (Cohen and Felson 1979)

- Volume of offences is linked to the nature of everyday patterns of social interaction
- Cohen and Felson argued that the incidence of crime is related to the following:
 1. The availability of suitable targets
(*e.g. car theft*)
 2. Presence of motivated offenders
(*e.g. if windows were down in the car and keys were in the ignition, it would be stolen*)
 3. Absence of capable guardians
(*e.g. the windows were down, keys in the ignition and police were around – the car wouldn't be stolen or if there is an alarm in the car*)
- Thus, not primarily interested in identifying or specifying reasons for crime commission but instead shifts focus to the differing risks for victimization that individuals and locations possess (Tewksbury and Mustaine 2010)

Policy Implications of the Classical School

- Many of the ideas championed by Beccaria (freedom from cruel and unusual punishment, the right to a speedy trial, the prohibition of ex post facto laws, the right to confront one's accusers, and equality under law) are contained in documents at the heart of Western legal systems today
- Assumption that persons are free agents who deserve to be punished when they transgress the law underpin modern criminal justice systems around the world
- Influenced the view that legal sanctions and punishment are an effective way of preventing crime
- Shifted the policy focus from large and costly social programs to target hardening and environment designs that might dissuade a motivated offender from offending

Deterrence

- The prevention of criminal acts by the use or threat of punishment
 - *Individual deterrence* refers to the effect of punishment on the future behaviour of the person who experiences the punishment
 - *General deterrence* refers to the preventive effect of the threat of punishment on the general population; it is aimed at potential offenders
- The influence of punishment on future behaviour depends on
 - Its certainty, celerity (swiftness), and severity; and
 - The *contrast effect*: the distinction between the circumstances of punishment and the usual life experience of the person being punished

The Positivist School of Thought (The atavistic criminal and determinism)

What is Positivism (more scientific)?

- Positivism denotes a particular philosophy of science based on obtaining knowledge by scientific observation and measurement
 - Dates from Darwin's time, when evolution, heredity and natural sciences enjoyed great prominence
- So, in the 19th century criminologists began to move toward a more scientific view of human behaviour
 - The increasingly popular view was that crime resulted from internal and/or external forces impinging on individuals, biasing, or even completely determining, their choices
 - ✚ This position became known as determinism, and its adherents were known as positivists

Key Premises of the Positivist School

- The emphasis is on the criminal, not on the crime
- Human behaviour is determined by biological, psychological and socio-economic factors over which individuals have very little control
- Crime and victimisation can be prevented by medical and psychological treatment and the improvement of poor socio-economic conditions
- Punishment has to be proportionate to crime and, where necessary, linked to treatment

Cesare Lombroso

- *Criminal Man (1876)* was the first book devoted solely to the causes of criminality
- Key idea: Atavistic (or primitive) man
 - A throwback to an earlier stage of human evolution, will commit crimes against society unless specifically restrained from doing so
- He identified three types of criminals:
 1. Born Criminal: Most dangerous, and can be identified through stigmata (physical deformities) (extra fingers or toes, large lips, receding chins, excessive skin wrinkles, and large monkey-like ears)
 2. Insane Criminal: Become criminals as a result of an alternation of their brain (includes idiots, imbeciles, epileptics, psychotics, and the mentally unstable)
 3. Criminaloids: Habitual criminals

Raffaello Garofalo

- Best known for efforts to formulate a 'natural' definition of crime
 - Should be anchored in 'human nature' – only crimes if universally condemned
 - Natural crimes are evil in themselves (*mala in se*), whereas other kinds of crimes (*mala prohibita*) are wrong only because they have been made wrong by the law
- Garofalo rejected the classical principle that punishment should fit the crime, arguing instead that it should fit the criminal
 - Believed that criminals have little control over their actions. Punishment should fit the danger the offender posed to society, judged by an offender's 'peculiarities' (risk):
 - ✚ Extreme criminals: Executed
 - ✚ Impulsive criminals: Imprisoned
 - ✚ Professional criminals: 'Eliminated' – life imprisonment or expelled to penal colony