

Criminology 2524

Substantive Examination Notes

Pre-Classicalism

What is pre-classicalism

Classical criminology developed out of the past notions of bloody and cruel systems of punishment, or the shift from feudal to industrial societies. These past systems were usually based on revenge and retribution rather than what is now known within classicalism/ neo-classicalism as deterrence. Pre-classicalism enabled the State to undertake harsh punishments, which brought individuals such as Beccaria and Bentham to question whether this was within their role to do so. Things like public capital punishment, burning hands and facial branding on convicts, flogging and/or whipping and ducking (securing someone in a chair and lowering them into water, essentially primitive waterboarding) were all common and accepted forms of punishments for perceived crimes. Although considered barbaric by many societies today, these forms of punishments are accepted within other societies such as Malaysia and Indonesia, whereby whipping and the death penalty are common forms of punishment.

Feudal societies sought to concentrate wealth and power within a select number of individuals, through tradition and harsh, repressive systems of justice (Newton, 125). At its core, Kings and Queens were considered to have divine and absolute power of the society, a right which was derived from God.

Modern Day Examples

Despite being considered a process of the past, there are many who still believe that a revenge or retribution-based model would be far more effective in combating criminality.

Symbolic punishment

Dr Rebecca Roache (Senior Lecture in Philosophy) is a big advocate for symbolic punishment, whereby biotechnology is used to trick prisoners into believing that they have spent 1,000 years in jail. This thought was generated using the example of Daniel Pelka, a 4-year old boy who was starved and beaten to death by his mother and stepmother in the UK. It was her suggestion that *'some crimes are so bad they require a really long period of punishment, and a lot of people seem to get out of that punishment by dying'*. Not having a legal background, Dr Roache appears to suggest that essentially extending someone's life for greater punishment would therefore produce 'better' outcomes. However, it appears to be reverting back to a pre-classical ideology, rather than the rehabilitation model commonly used today. The idea of prison and the criminal justice system is not only to get to the truth of the matter, but also ensure those charged or convicted are supported to become better individuals. 'Knee-jerk' responses such as this reduce the concept of rehabilitation in favour for a feudal or pre-classical idea of crime.

Witchcraft

Witchcraft is a long held religious belief dating back hundreds of years ago. Witches were believed to be a mythical being which used its supernatural powers for bad rather than good.

There is however a number 'witch-related' crimes are rising, particularly in relation to child mutilation, deaths and rapes in London. In regards to cases passed onto the Metropolitan Police in 2011 there were 9, in 2012 there

were 19 and in 2013 there were 24. In 2014 there have been 27 allegations, two of which include rape related crimes. These statistics have continued with a number of killings linked to these beliefs, including Kristy Bamu (15yrs) who was tortured and drowned by his sister and her boyfriend in 2010 as they believed she was possessed by evil spirits. Another victim Victoria Climbié (8yrs) was tortured, starved and hit with various objects because her guardians believed that she was possessed by evil spirits. Detective Superintendent Terry Sharpe of the Metropolitan police stated that “if someone is branded a witch, the violence can escalate quite quickly. They are no longer seen as a child but someone that can inflict harm on others”. It is questioned whether these actions are in fact for the ‘purpose’ of witchcraft or rather a useful escape from child abuse.

The concept of witchcraft continues within religious readings. Harry Potter was banned in 2009 at St Mary’s Island Church of England School. The headmistress, Carol Rookwood stated “*The Bible is very clear and consistent from Genesis to Revelations that wizards and wizardry, devils and demons are real and they do exist. They are powerful and they are dangerous and God’s people have nothing to do with them.*” It is likely that this thought came from Exodus 22:18; ‘thou shalt not suffer a witch to live’. It is interesting that individuals continue to have these ideas, even though we are at a time whereby religion is not at the forefront of everyone’s daily rituals. No longer is it the norm (particularly in western societies) to undertake religious rituals. The question quickly becomes, should this be the accepted norm and should witchcraft be considered an adequate reason to provide leeway for a convicted individual. Exodus suggests that not only should literature which appears to celebrate witchcraft (such as Harry Potter), but there is cause to execute those who do. This reflects the theories during the pre-classical stages whereby torture of these individuals was deemed appropriate and even accepted practice.

*Perceived idea that those who are condemned or have evil spirits are worthy of poor treatment and therefore prevents them from criminality accountability

Satanism and the Cult – West Memphis Three

Satanism, much like witchcraft is long entrenched in historical notions of different individuals completely negating any plausible reason as to why they are exhibiting such behaviour. The West Memphis Three is an example of the perceived notion of Satanism. In 1993, three young boys were killed in West Memphis, Arkansas. Steve Branch, Michael Moore, and Christophe Byers were all 8 years old when they went missing. Their bodies were found, hogtied with their shoe-laces. They had been stripped naked and Byers had lacerations to his genitalia. Damien Echols (18yrs), Jason Baldwin (16yrs) and Jessie Misskelley (17yrs), were all charged and convicted of the children’s murders with Echols receiving the death penalty and Baldwin and Misskelley receiving life in prison. The three individuals were seen as outcasts within their bible-belt town (i.e. wore black and listened to heavy metal music), many accusing the boy of killing due to a satanic ritual. Throughout the trial, there was reference to the boys enjoying Stephen King novels which was suggested to be in relation to their ‘satanic’ beliefs. After advancements in DNA technology, the three now men were released from prison on the basis they undertook an Alford Plea (plea of guilty while maintaining innocence). This identifies the extreme lengths individuals will go to prosecute individuals who are perceived as exhibiting pre-classical sins. Although there was an interview undertaken whereby one of the boys ‘admitted’ to the crime, it was clear that due to his low IQ and mental connectivity, it was reasonable to suggest that he did not understand what was being said.

Classical Theory

Summary:

Classical criminology refers to work by philosophers of legal reform such as **Casare de Beccaria** and **Jeremy Betham**, during the age of enlightenment (or the 18th-century). The theme of these theories surrounded around the idea of the social contract (a phrase first coined by Jean-Jacques Rousseau in 1762 whereby there was a movement away from the spirituality of previous eras and towards Beccaria's work. It suggests each individual is bound to social norms and anyone who breaks the contract, and thereby becomes a criminal, is deemed anti-social) and the rational actor (that those who commit crimes are doing so by choice, as they are rational individuals). It also extends to contemporary works on crime, economics and deterrence. There was an assumption that the criminal is someone exercising free will and rationality. As such humans were considered rational actors who make decisions based on 'cost-benefit analysis', i.e. whether there is an economic benefit [Newburn, 2013,pp125]. The emergence of classical understandings of law and criminal justice were the result of a 'more general shift from feudal to industrial society' [Newburn, 2013,pp125].

Methods of punishment during the 17th and 18th centuries were brutal and, by today's standards, would be considered barbaric (i.e. public flogging). The 'classical' view emerged as a 'response to the arbitrary and cruel forms of punishments' which continued to dominate the criminal justice system during the 16th and 17th centuries [Newburn, 2013,pp125]. As countries entered into revolution seeking the removal of the British monarchy from their nation (i.e. French and American Revolutions), new institutions were developed which encouraged greater political decisions and engagement. This movement encouraged individuals such as **Casare de Beccaria** and **Jeremy Bentham** to seek a change from the barbarity within the justice system.

Casare de Beccaria [1738 – 1794]

In 1764, Casare de Beccaria wrote *On Crimes and Punishment* but retained his anonymity when publishing. Provided the dominance of government and the church, his long-winded introduction outlined that there was no intention to offend.

In brief, Beccaria outlined a number of **core principles**:

1. The law should restrict the individual as little as possible
 - The law should be written and define crime and punishment
2. The law should guarantee the rights of the accused at all stages of the criminal justice process
 - A judge should determine guilt by using the law and therefore remove judicial discretion
 - Judges shouldn't be 'soft' => humans are rational actors with a social contract
3. Punishment is only justified to the extent that the offender has infringed the rights of others or injured the public good
 - 'It is better to prevent crimes than to punish them.' [Beccaria, 1764/1963, pp93]
 - o If we are expose to religious symbolism punishment (torture) for every crime committed, it in itself becomes ineffective to prevent crimes. If humans are exposed to punishment as a deterrent, as rational actors we will actively choose not to commit a crime.