

Quadrant II - Notes

Paper Code: CPE 0813

Module Name: Schools/Theories of Criminology: Pre-Classical, Classical, Neo-Classical

Module No:04

Introduction

Crime is a complex phenomenon. It not only causes harm or loss to the victim but it also impacts society at large. It is a wrong against the whole society. This is because the society feels threatened and feels a sense of insecurity every time a crime is committed. Everyone would agree that crime is a complex and challenging phenomenon. It is also inevitable, universal -occurring in all societies -early or modern. And undoubtedly a ubiquitous occurrence. This brings us to the question as to why crimes are committed.

The reasons for the occurrence of crime are not easy to understand. Moreover much attention was not paid to the criminal or to the causes for the occurrence of crime in early times. Punishment of the wrongdoer was important. It was around the 17th century that efforts to explain crime causation began to take place. The explanations which were afforded reflected the circumstances and the thinking /philosophy prevalent at the time. Thinkers and reformers made attempts to study why criminals commit crime –leading to the development of the early schools of criminology. Some theories explained that that people commit crimes due to demons or evil spirits, from free will or mental depravity or disease. These explanations came to be viewed as Schools or theories of criminology. This was thought necessary in order that appropriate societal and governmental mechanisms were in place to control it.

Pre -Classical school of criminology

The first school to provide an explanation for the phenomenon of crime is the Pre -Classical school of criminology. It is the ancient theory of crime. This school of thought arose prior to the 18th century. At that time in Europe ,there was dominance of religion in State matters and thinking. A strong belief existed that all human action is controlled by a divine being. Commission of crime according to this theory occurs not due to one's own free will but due to extraneous or external forces. These forces were taken to mean supernatural forces. Wrongful acts it was believed were committed under the influence of evil spirits, demons or due to witchcraft. Such acts were not due to one's own free will. The assumption made by this school was that criminals commit crime under the influence of evil spirits, demons resulted in this theory being known as the Demonological theory.

As a result of such thinking, punishments proposed were harsh and brutal. This was basically due to the idea that it was only with harsh methods it would be possible to drive away the evil forces which had taken control of the offender. The theory also advocated worship, sacrifice and ordeals by fire or water. These were meant to determine the guilt or innocence of the offender. If he was able to withstand the ordeal, he was considered to be innocent. In other cases, he was considered a wrongdoer. Thus Torture and infliction of pain was justified in such circumstances to repel or drive away the evil spirit or demon. The Individual in question was not regarded. Only his wrongful act or crime was in question. This theory is in a way the first attempt to explain crime. But it was irrational since it relied on super-natural explanations. Punishments were harsh and brutal to drive away the evil forces.

Pre-Classical School was the one of the oldest schools to focus attention on explaining the causes for the occurrence of the crime. It was universally accepted when it was proposed –prevalence of religious thinking. It provided recognition to the right of society to punish the offender. Though it was unscientific, it paved the way for theories which were more scientific.

Classical School of Criminology

This school of thought arose in the middle of 18th century. Cesare Beccaria, Jeremy Bentham were its main exponents. This theory rejected the pre classical theory which placed emphasis on the omnipotence of the evil spirit or demon. It laid emphasis on the mental part of the offender and attributed the commission of crime to the free will of individuals. This school was influenced by two theories: a) Free Will or Rational Choice theory b) Pain and Pleasure theory. According to the Free Will or Rational Choice theory, Humans as rational beings have free will to decide their actions or omissions. Since man is free to make his own choices, his actions are the result of his choice. Such persons should be responsible for their own actions. Thus where their actions are wrongful, they deserve to be held accountable and punished.

Emphasis on the Pain and Pleasure theory: This theory was based on the hedonistic principle of pleasure and pain. A rational man seeking pleasure and avoiding pain may commit crime by his free choice. They pointed out that the individualisation was to be the basis of punishment. This meant that punishment was to be awarded keeping in mind the pleasure derived by the criminal from the crime and the pain caused to the victim from it. However it was felt that equalisation of justice was necessary which meant equal punishment for the same offence.

It was further advocated that Punishment could be meted out in the interest of public security. It was also opined that Punishment should serve as a deterrent. For this purpose, the Punishment should be sure, swift and severe. Punishments should have also been pre- determined. This meant the punishments were to be awarded as laid down in the codes. They were against the use of arbitrary powers of judges or arbitrary punishments. It advocated more humanitarian forms of punishment.

Contribution of the Classical School

It advocated more humanitarian forms of punishment. It did not advocate physical punishment and the death penalty. Punishment should fit the crime and not be excessive. This School was Responsible for rationalized criminological thinking. It did not believe in imposition of arbitrary punishments.

Neo Classical School of Criminology

The Neo Classical school arose due to the inability of the free-will theory to provide explanation for crime. It approached the study of criminology by utilizing more scientific methods. According to Prof. Gillin – “ it represents a reaction against the severity of the classical view of equal punishment for the same offence.” These theorists believed that certain extenuating factors or mental disorders deprived a person of his free will. Accordingly, the Neo Classicists advocated a lenient approach for certain categories of offenders -insane, minors, etc. in matters of punishment for similar offences. Such persons according to this school are incapable of differentiating between right and wrong. Extenuating circumstances must be considered in respect of these persons. A distinction was also made between first time offenders and recidivists. Mitigating circumstances under which the offence was committed had to be studied.

Contribution of Neo-Classical School

The Approach of the Neo Classical school was on more scientific lines. It recognized extenuating circumstances for certain categories of offenders. It was the first to bring out the distinction between first offenders and habitual offenders in meting out punishments. It proposed a more humane approach towards offenders. It Supported individualized treatment of offenders – punishment to fit the circumstances of the offender.

Conclusion

All the three schools of criminology particularly, the Classical School and Neo-Classical School laid the foundation for modern criminological studies.