CRIMINOLOGY – SCIENTIFIC / PSYCHOLOGICAL APPROACHES TO CRIME

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Introduction

The emergence of positivist criminology in Europe in the 19th century marked a fundamental shift of academic thinking about crime and its treatment (Roshier 1989). Prior to this was the dominance of classical criminology. The classicists, led by Beccaria, Bentham and Romily, all proceeded on a common set of assumption:- Men are possessed of free will. They are calculating animals and based their action on pleasure and pain. Men will be discouraged from criminal activity if threatened with punishment that outweigh any gain resulting from their actions. The individual is responsible for his actions and punishment must be proportional to the interest violated by the crime (Bentham 1823, Phillipson 1923).

Criminal Anthropology

In 1876, Lombroso conventionally designated the founding father of criminal anthropology, explained criminality in terms of "atavism", a hereditary regression to the behaviour and appearance of a primitive human ancestral type (Nye 1984, p.99). Lombroso argued that about 40% of offenders were "born criminals", persons who had inherited a large numbers of primitive characteristics. Their behaviour was therefore that of the savage. While savage behaviour might have been appropriate in savage time, it was now intolerable and hence branded criminal (Gould 1978). Lombroso compared the behaviour of lower animals to that of the criminal and argued that 'the usual behaviour of lower animals is criminal by our standard' (ibid p.224). He then examined the anatomy of criminals to show that criminals were throwbacks to our evolutionary past(ibid). The criminal, he claimed, had many features, not only of lower primates, but also of lower mammals and even of flatfishes (ibid p.225). These physical stigmata were accompanied by mental and social signs of atavism. It can be seen that Lombroso's views were more complex than the argument for which he is often credited with:- i.e. that criminals are biological inferior( West. 1988) .

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According to Roshier (1989), there are three features to distinguish biological positivists (criminal anthropology) from classical criminology:

(a) Determinism - in the more general positivist sense means that crime is seen as behaviour that is caused by biological, psychological or social factors, depending on the academic origins of the criminologist concerned. On this view, crime does not consist of actions rationally chosen by the "criminal".

(b) Differentiation - refers to the positivist assumption that there is something (preferably measurably) different about criminals. They may be seen as differing from non-criminals in terms of their biological or psychological make-up, or in term of their values, again to the academic origins of criminologist concerned. There may also be sub-categories of criminal committing different types of crime caused by different types of factor.

(c) Pathology – means that criminals are not only different from non-criminals, but there is also something "wrong" with them. Their different make-up or values are not simply variations of the normal.

**Scientific / Psychological Approaches To Crime**

Relying on the three features stated above, criminal anthropology/biological positivism of the 19th century had to a large extent altered the thinking about the mental state of criminals. As Matza (1964) asserted ‘...it focused on motivation and on the individual criminal. It sought an explanation of crime in the criminal, not in the criminal law. The emphasis is on the individual offender, not the crime’. Crime or rather criminal has become object of scientific study. Presumably, criminalities are determined. Criminals ‘are not understood to be orderly, rational beings, always able to reason and make a free choice about doing right or wrong. They are seen as being in the grip of influences - inherited or a product of their environment - which drive them hither and yon, and over which they have no real control’ (Clyne 1973, p.2). Now that the reason for the crime had become the reason for the punishment, how could one punish if the crime was without reason? In order to punish, one needs to know the nature of the guilty person, his obduracy, the degree of his evilness, what his interest or his learning are. All the indictments prove that in order for the punitive mechanism to work, the reality of an offence and a person to whom it can be attributed are not
sufficient; the motive must be established, that is, there is a psychologically intelligible link between that act and the author. From the 1870's and 1880's, the essential elements of the old penal rationality began to be definitely overturned. Ferri argues as follow:- ‘Beccaria’s theory of punishment as an instrument “ad deterredum” counterweighing the interest in the committing of crimes is false, both theoretically and practically: practically, because statistics of crimes and criminals simply continue to rise; theoretically because the criminal does not think like a normal and honest person such as Beccaria - indeed, we may say that he or she does not think at all’. ‘The criminal cannot be a “homo penalis” because he is not a man’ (Pasquino, 1979).

Meanwhile, the development of scientific disciplines such as psychology, psychiatry and medicine in the 19th century had facilitated the study of modern criminology. There was a transformation particularly in the nature of psychological knowledge:- a shift away from psychology based upon ‘philosophical speculation’ to psychology based upon positive scientific knowledge. Research into mental states of criminals and debates on concepts of insanity, moral insanity, moral imbecile and dangerous individuals etc had continued ever since.

Moral Imbeciles, the Born Criminal and the conflict between Classical Penal Theory and Criminal Anthropology

The principles of insanity contained in the M'Naghten Rules (1843) were challenged. Some 'medical psychologists' began to argue that insanity was not confined to intellectual derangement, and that there were “affective or emotional disorders” which were also types of insanity (Handerson 1939; Prins 1980) such as moral insanity and moral imbeciles.

The crucial difference between “intellectual insanity” was that while insanity was generally attributed to disease in later years (although heredity could predispose a person to insanity), and was considered potentially curable, imbecility was considered to be a hereditary, or inborn, and permanent condition (Burt 1925, p.34-6). The 'symptoms' of insanity and imbecility were more or less the same (i.e. gross deviation from a given standard of reasoning ability); the conditions differed in terms of their cause and curability. Likewise, moral imbecility was distinguished on the grounds that it was an inborn and hereditary condition and that it was incurable. However, the
'symptoms' of moral imbecility were also different from those of moral insanity. Whereas moral insanity was diagnosed on the basis of deviation from norms of conduct established by the individual, moral imbecility was inferred from the transgression of social norms. The moral imbecile had, by definition, always acted in an anti-social manner. Unlike the concept of moral insanity, then, the concept of moral imbecility did appear to lead to a generalisation of the link between mental abnormality and crime. According to Maudsley (1870), it was this category which was applied to criminal class: 'if there be a class of persons who are without the moral sense, who are the true moral imbeciles, it is the class of habitual criminals ...'. Recidivism (habitual criminals) was often deemed (according to criminal anthropologists) to be sufficient proof of moral imbecility.

However, the criminal class was not an obvious category. To the contrary, such a class was unintelligible to the prevalent penal rationality. For classical penal theory (as illustrated earlier), criminals had nothing in common except for the fact that they had chosen to commit crimes. It was presumed that criminals were like non-criminals in their essential characteristics i.e. free will and rationality. They differed from others 'only in the contingent and non-essential fact of their law breaking' (Garland 1985 p.14). If there were other differences between criminal and non-criminal, such differences had no status within classical penal theory and hence there would be no special allowance made for them in penal practice.

For the criminal class to become conceivable, the prevalent penal rationality had to be confronted with the existence of 'criminal class'. One of the main purposes of an article by Thompson in 1870 was to assert:- (1) That there is a criminal class distinct from other civilised and criminal men; and (2) That this criminal class is marked by peculiar physical and mental characteristics' (Thomson 1870). The category of moral insanity, and the closely related moral imbecility played a crucial role in establishing this argument. It was largely in terms of category of moral imbecility that criminal class was conceived and represented. The essential distinguishing feature of the criminal class was said to be their moral imbecility. The argument that 'violent and habitual criminals are as a class, moral imbeciles' (Thomson 1871) was to form the basis of a sustained attack upon classical penal rationality throughout the remainder of the 19th century.
Ellis (1910 - first published in 1890) was chiefly responsible for disseminating criminal anthropology in Britain. Ellis argued that the criminal, as well as being an evolutionary throwback, was also a 'moral imbecile'. As was the case with Prichard, Ellis linked psychiatric with anthropological designations of delinquency. Ellis expressly welcomed Prichard's attack upon the conception of insanity then ruling among English lawyers, by which it was regarded as a purely intellectual matter. However, he also criticised Prichard's use of concept of moral insanity as being too restrictive, arguing that the cases, which Prichard used to demonstrate moral insanity, were 'clearly insane in far more than "moral" respects' (Ellis, 1910, p.33). According to Ellis, all those who constituted the criminal class i.e. persistent delinquents as opposed to the 'political criminal or the criminal by passion' (ibid chapter 1) could be seen as moral imbeciles (ibid p.33 & p.285-6). For Ellis, the "born criminal" and the "moral imbeciles" were one and the same thing (ibid p.292). As against Prichard's concept of moral insanity, Ellis preferred that of the German "alienist" Grohmann, who expressly realized that 'there are no clear lines of demarcation between the insane and the criminal' (ibid p.288).

While both Maudsley and the criminal anthropologists from Prichard was in their insistence that moral imbecility was an inborn, permanent condition; Prichard argued that mental and moral characteristics were passed through heredity. He also presumed that these characteristics, unlike physical characteristics, would be substantially altered during the term of a person's life. Maudsley and the criminal anthropologists argued to the contrary, i.e. once a defective moral sense had been inherited, it could not be altered or at least not for the better. One's moral nature was biological determined, just as physical characteristics were; it was a part of one's constitution (and of course, for the criminal anthropologists, there was a strong relationship between physical and moral defects). As Ellis put it, 'the average criminal, whatever injustice he may have suffered at the hand of society, is at the same time a more or less congenitally abnormal person, endowed with ill-adjusted organism which fails to respond to the same social stimuli as organisms by which it is surrounded' (Ellis 1910). This argument was often used to support claims that moral imbecile was irreformable. The concept of moral imbecility therefore lent scientific legitimacy to the developing concerns of social policy (Johnstone 1989, p.215). The criminal class, a social category, was represented as a race apart, its members were represented as psychologically and physically, as well as morally inferior to normal citizen. Special
forms of control designed for them, but not ordinary citizen - could therefore be represented as both necessary and justifiable.

The Concept of the "Dangerous Individual"

One of the most important contributions of positivist criminology (criminal anthropology) is the primacy of criminal behaviour rather than the criminal law as the major point of departure in the construction of etiological theories (Matza 1964). As Garofalo formulated, 'Criminal law knew only two terms, the offence and the penalty. The new criminology recognizes three, the crime, the criminal and the means of repression'. Hence, a further question arose in the rules and regulations of legal punishment: "Whom do you think you are punishing?" apart from "What must be punished, and How?" (Foucault, 1978, p.3).

The intervention of psychiatry in the field of law occurred in the beginning of the 19th century in connection with a series of "monstrous" murder cases whose pattern was about the same. 'These crimes "Homicidal Monomania" were committed "without reason, without passion, without motive, even based on disordered illusions" that part of the subject is beyond his responsibility; the insanity which hides in him and which he cannot even control because he is frequently not even aware of it' (ibid p.5). Hence, the issues of insanity and "dangerous individual" arose. "Homicidal Mania" is the danger of insanity in its most harmful form; a maximum of consequences, a minimum of warning; the most effects and fewest signs. Homicidal Mania thus necessitates the intervention of a medical eye which must take into account not only the obvious manifestations of madness but also the barely perceptible traces, appearing randomly where they are least expected, and foretelling the worst explosions (ibid p.7). In view of that, the role of psychiatry became increasingly vital to look into the "dangers" hidden in human behaviour. The emergence of criminal anthropology, which focused on "individual criminal" and "born criminal", was in line with the concept of "dangerous individual". This had led to a greater debate on the concept of "dangerous individual" and its treatment throughout the rest of the 19th century.

Criminal Anthropology and its implications on Penal Policy
Referring to the concepts of "dangerous individual", "born criminal", "criminal class", "moral imbecility" etc., the Criminal Anthropologists had in the late 19th century suggested totally abandoning the judicial notion of responsibility, and posing as the fundamental question not the degree of freedom of the individual but the level of danger he represents for the society. Moreover, it meant noting that the accused whom the law recognized as not responsible because he was ill, insane, a victim of irresistible impulses, was precisely the most seriously and immediately dangerous. The criminal anthropologists emphasized that what is called "penalty" does not have to be a punishment, but rather a mechanism, for the defense of society, and noted that the relevant difference is not between legally responsible subjects to be found guilty, and legally irresponsible subjects to be released, but between absolutely and definitely dangerous subjects and those who can cease to be dangerous provided they received certain treatment. They concluded that there should be three main types of social reaction to crime or rather to the danger and threat represented by the criminal: definitive elimination (by death or by incarceration in an institution), temporary elimination (with treatment), and more or less relative and partial elimination (sterilization and castration).

**Conclusion**

It is therefore clear that the Criminal Anthropology of the 19th century had led to a major change of academic thinking pertaining to the "mental states" / psychological aspects of criminals. There were a series of shifts:− from the crime to the criminal; from the act as it was actually committed to the danger/threat potentially inherent in the individual; from the modulated punishment of the guilty party to the absolute protection of others. As Ellis put it, 'We are now learning to regard the criminal as a natural phenomenon, the resultant of manifold natural causes. We are striving to attain to scientific justice. We are seeking in every direction to ascertain what is the reasonable treatment of eccentric and abnormal members of society, in their interest, and in the still higher interests of the society to which we belong...' (Ellis 1890, p.231). All these can be made to function in a rational way only within a technical knowledge-system capable of characterizing a criminal individual in himself and in a sense beneath his acts; able to measure the index of danger present in an individual and which might establish the protection necessary in the face of such danger/threat. Hence, the idea
that crime ought to be the responsibility not only of legislators and judges, but of experts in psychiatry, psychology and criminology.

References


