

**ANALYZING THE EVOLUTION OF SOCIETAL
PERSPECTIVE IN CRIME AND IT'S IMPACT ON
CRIMINOLOGY AND ENFORCEMENT OF LAW**

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ABSTRACT

*“The deviant and the conformists are creatures of the same culture,
inventions of the same imagination”*

- Kai Theodore Erikson

There is no society without unequals. Conflicting interest of people in the same society eventually becomes one of the reasons for crime. Crime thus becomes inevitable in a society which mandates a policy of normalization. Criminology plays an eminent role to criminalize a certain kind of conduct to declare that it should not be done as it causes upheaval in the society. It institutes infliction of punishment in order to supply a pragmatic reason for not doing it and takes a step forward to punish people who does not abide by the rules enacted to regulate the society. ‘Where there is a change, there is progress’. The change in the perspective of the society from ancient times till this date has brought several magnificent progresses that has broadened the scope of criminology. This article revolves around the origin and development of criminology, the different branches of criminology that have been emerged as a result of time and research of the criminologists, the optimistic change in the mindset of people that

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contributed to the development of criminology, improvement in the method of punishment to criminals, how the development of criminology shows impact in law enforcement and a few suggestions. The overall objective of this article is to showcase the change in the society's perspective and its impact on the evolution of criminology and enforcement of Law.

Keywords: Development in Law enforcement, Evolution of Criminology, Society's Perspective on Crime.

INTRODUCTION

The word "Criminology" comes from two ancient-Greek words "KRINO" which means "accusation" and "LOGOS" which means "to study". Hence, criminology is defined as the study of crimes. It doesn't confine within that but also includes the means to treat criminals so as to reform them and hence, anything which is related to the criminal aspect comes within the scope of criminology which makes its scope very much wider than one could possibly imagine. The main objective to study a crime is to know 'what could have caused that crime?' and 'how to prevent it from happening in the future?' which is the main focus of criminology.

Though criminology in general, studies about accusation, it also includes how to identify the criminal, what are the effects of the crime, the method of punishment to be given to various categories of crime. This article prominently concentrates and analyses, how far the scope of criminology has been widened and how it has evolved over these years.

WHAT IS CRIMINOLOGY?

According to Edwin Sutherland², a well-known criminologist, father of American criminology, “criminology is a body of knowledge which involves within its extent, the process of making of laws, the breaking of laws, and the society’s reaction to the breaking of laws.³”

In general, Criminology is a study that completely analyses every detail that revolves around a crime. It not only includes crimes and their study but also the non legal aspects of crime such as anthropology⁴, psychology⁵, economics, sociology and even statistics. Criminology can be broadly organized into three branches

1. Cause of the crime
2. Identification of crime
3. Penalizing or reforming criminals

Phase one deals with the sociological perspective of a crime such as “What could have caused the criminal to do such an act?” or to put otherwise, “What could have been the reason for the happening of crime?” The mental state of the criminal while doing such an act is sought for an explanation in this phase. This phase concentrates on events before the crime occurred.

The second phase is to classify the act of the criminal to be crime or not. This again depends upon the society’s view on such act. This part includes the identification of the methodology used by the criminal to do the act of crime. It is important that the criminologists should put themselves in the shoes of the criminal and think the same as that of the criminal. And this

²About Edwin Sutherland, available at: https://en.m.wikipedia.org/wiki/Edwin_Sutherland (visited on August16, 2022)

³ Edwin Sutherland, Principles of criminology, ISBN 0-930390-69-5

⁴ Study of humanity, human biology, culture, societies, and linguistics.

⁵ Study of human mind’s behavior

phase also concentrates on methods used to detect or find whether such person i.e., the accused has committed the crime or not. It is to be noted that the research in this phase is yet to reach its zenith and is consistently developing as we can see the researchers in this field come up with many ideologies such as “lie detection test”, “Brain Fingerprinting”, “Guilty Knowledge Test”, and many such findings that not only helps in finding the criminal but also to eliminate innocent from being the victim of a wrongfully alleged crime. The main aim of finding the crime is to prevent it from happening in the future. One of the ways to prevent the crime from happening, is to reform the criminals by infliction of punishment. The other reason for imposing punishment is to create a fear in the minds of people which prevents them from doing the crime again or creates an example as to how a criminal would be treated so that they would not dare to do such crime.

The study of crime doesn't confine its boundaries within the methods of identifying the crime but goes beyond and extends to penalizing the criminals. The purpose of infliction of punishment is to prevent future crimes. Besides penalizing, there are other methods which can be more effective to prevent a crime. Crime prevention techniques are of three types.

Primary prevention: This extends to altering the environment from where the foundation of becoming a criminal is being laid. The alteration should be in such a way that the root causes for commission of crime should completely be eradicated. This prevention primarily focuses on young mind and infuses thoughts that make them loose interest in doing a crime in future.

Secondary prevention: This mechanism is based on the imposing of barriers that makes the perpetration of crime more difficult. This primarily depends upon the enactment of laws by the legislature but this mechanism has been criticized, as most of the time, laws are not being followed by criminals.

Tertiary prevention: This method is all about the rehabilitation of criminals.

BIRTH AND HISTORY OF CRIMINOLOGY

The term criminology was coined during the mid-eighteenth century in 1885 by an Italian professor Raffaele Garofalo⁶ as *Criminologia*. The coining of this term led to several research as to ‘why do crimes happen?’ ‘What are the causes of a crime?’ And several scholars expressed their views which widened the branches of criminology.

Criminology's birth can be traced way back to 1200 BC. It's development can be seen through the ideology of various school of thoughts which pursued the idea of contributing to reform the society, thereby leading to consistent development in criminology.

Pre-classical school of thought:

From the year 1200 to 1600, the pre-classical school of thought prevailed. This school believed that, the person who commits crime is possessed by evil spirit or devil which made them do such crime. Superstitious belief prevailed dominantly at that period which made the people believe that some *demonic spirit* was the reason for commission of crime.

Classical school of thought:

This era prevailed from 1600 to 1764 where the presiding principle was the “concept of *free will*”⁷. The proponents of this theory were convinced with the fact that, ‘since people were given the free-will to choose the way to do a specific work, they found illegal ways to be pretty

⁶ About prof. Raffaele Garofalo available at: https://en.m.wikipedia.org/wiki/Raffaele_Garofalo (visited on august 11, 2022)

⁷ Simha F Landau and Leslie Sebba, “problem of free will in criminology” 1 NCJ 45543 (1977)-
<https://www.ojp.gov/ncjrs/virtual-library/abstracts/problem-free-will-criminology-criminology-perspective-essays-honor#:~:text=THE%20PROBLEM%20OF%20FREEDOM%20OF,CONSEQUENT%20RESPONSIBILITY%20FOR%20THIS%20CONDUCT.>

much attractive and much easier than adopting lawful ways, which led to the commission of crime in the course of time.’

The proponents of this school envisaged ‘the concept of controlling crime by infusing the fear of punishment in one’s mind.’

Neo-classical school of thought:

The conceptualization of crime by this school was similar to that of classical school but the idea of ‘*mens rea*’ and other factors that encouraged the commission of crime was taken into account to decide the punishment to be given. This resulted in the search of factors that causes an individual to commit a crime and thus a new approach to criminology began. This era lasted up to 1780 .

Positivist school of thought:

Later, the idea which prevailed in the mid-eighteenth century was criticised by the pioneers of criminology in the nineteenth century and they named themselves as positivists. The positivist school of thought brought out a new vision to the research methodology by introducing the application of science into the study of crime. This school prominently relied upon observing the characteristics of criminals to identify the root cause for the crime they commit⁸

1. Biological concept:

According to Cesare Lombroso⁹, founder of Italian school of positivist criminology, crimes happen due to hereditary traits of an individual and criminality is an inherent character and a

⁸ Positivist School of Criminology available at <https://online.seu.edu/articles/classifying-crime-major-schools-of-criminology/> (visited on August 14, 2022)

⁹ About Cesare Lombroso available at: https://en.m.wikipedia.org/wiki/Cesare_Lombroso (visited on August 13, 2022)

person could be identified as a criminal by the way he looked¹⁰ and brought down a new theory of criminology that '*the profile of the crime should fit into the profile of the accused and not the crime in which he is accused for*'. The pioneers of this school once for all decided that crime is something that comes along with heredity and if the accused's relatives were convicted for any sort of crimes in the past, it was decided that he is also a criminal.

2. *Psychological concept:*

This concept was advocated by *Albert Bandura*¹¹. He proposed in his theory that, people are not born with the intrinsic capacity to commit crimes¹², their mind is shaped through behaviour modelling. To put it otherwise, people are influenced by their surroundings. They just replicate what they observe and react to the circumstances accordingly.

3. *Sociological concept:*

This ideology was brought by Edwin Sutherland and Robert K Merton. This paved way for the "Strain theory" developed by Robert K Merton in 1938¹³. According to this theory, individuals are forced to commit crimes under the circumstances, when they are pressured to achieve the goals set up by the society. For example, the society in which an individual lives may have a conception that one should possess a hi-tech lifestyle in order to be respected. This will force him to earn more than what is sufficient for his livelihood. This in turn pressurizes him to achieve things which may be impossible by legal means resulting to adopt illegal means of obtaining money.

¹⁰ Lombroso theory of "born criminal"

¹¹ About Albert Bandura available at: https://en.m.wikipedia.org/wiki/Albert_Bandura (Visited on August 25,2022)

¹² Bandura, A. *Social learning through imitation*. University of Nebraska press: Lincoln, NE. (1962).

¹³ Merton, Robert "Social Structure and Anomie". *American Sociological Review*. 3 (5): 672–682. doi:10.2307/2084686. JSTOR 2084686. (1938).

Later, advanced methods of Science and measurements were applied into the existing theories of criminology and procedures were created to scientifically find the wrong-doer, in whichever cases possible. The evolution of this procedure is today's forensic science.

The evolution of criminology did not only find the method of identifying the criminal but also in decriminalising certain acts which were considered to be heinous crimes previously.

Have we evolved in distinguishing what is crime and what is not?

The answer would obviously be a YES. Human history has always shown evolution in every aspect of life. An act becomes a crime depending upon 'the perspective of the society' and 'the thoughts of the people of such society'. Public sees crime as what has been framed as good or bad in respective periods of history which varies according to the geographical conditions. An act which is a crime in one geographical region may be a form of practice in another environment. For example, polygamy became illegal in India in 1956, uniformly for all of its citizens except for Muslims, but Polygamy among Hindus is sometimes accepted in some rural areas, often with approval by earlier wives.¹⁴

When we look into the history of law which we practice now, we can see that it has undergone several magnificent changes which is because, people have changed their perspective and they are adapting to the new modern society where an act is decided to be a crime or not, by putting themselves in the shoes of the accused. In other words, they started believing that life could also be led in ways which they have so far believed to be crime.

¹⁴ Practise of polygamy in India available at: <http://www.cnn.com/2015/07/16/asia/india-water-wives/> (visited on August 16, 2022)

One of the best examples could be the acceptance of homosexuality¹⁵. The society has evolved so much in its perspective regarding this issue as people with similar sexual orientation were seen as criminals who commit an unforgivable sin which was also considered as immoral practice but the same has now been accepted by our society. Besides acceptance, it has also been declared by the supreme court of India that, homosexuality with the consent of an individual is not a crime anymore under section 377 of IPC¹⁶. But homosexuality was punished with capital sentence during 17th century.¹⁷

Yet another best example could be recognition of sex work as a profession¹⁸. The history of sex workers dates back to 2400 BC where the records show it as an occupation¹⁹. In India, as observed by the supreme court, sex workers are often punished cruelly and are treated with hatred and despise. But this situation is now beginning to change and the court also has ruled that, sex workers are also humans and they deserve the right to dignity.²⁰

Crime is what the society frames it to be. When the mindset of the people begin to broaden, they are enlightened as to what should be treated as crime and what should be not; this is the objective of criminology. So far, the growth of people's demeanor is in a positive manner which shows that we have evolved in an optimistic way.

¹⁵Acceptance of homosexuality in various countries available at: <https://www.usnews.com/news/best-countries/articles/2020-06-25/lgbtq-acceptance-growing-in-us-and-other-countries-over-time> (visited on August 15, 2022)

¹⁶ Navtej singh johar v. UOI (2018) 10 SCC 1

¹⁷ The last two men to be executed for same-sex acts in England, James Pratt and John Smith, were executed by hanging on 27 November 1835. available at : <https://www.humandignitytrust.org/lgbt-the-law/a-history-of-criminalisation/> (visited on August 16, 2022)

¹⁸ Supreme court judgement on recognising sex work as a profession available at: <https://www.thehindu.com/news/national/supreme-court-recognises-sex-work-as-a-profession/article65461331.ece> (visited on August 17, 2022)

¹⁹Prostitution as a profession available at: https://en.m.wikipedia.org/wiki/History_of_prostitution#:~:text=Sumerian%20records%20dating%20back%20to,%20three%20grades%20of%20women (visited on August 20, 2022)

²⁰ Budhadev Karmaskar vs. state of West Bengal (2010) criminal Appeal No. 135

PROGRESSION IN PENOLOGY:

“Every crime has its consequences.”

Penology is a branch evolved from criminology and deals with the practice and evaluation of inflicting punishments to criminals. This has been a quite controversial subject matter that incurred several changes along with the evolution of criminology. There are various theories and practices of different methods of punishments in different eras but the utmost aim of punishments was to prevent crimes.

In the beginning, the mode of punishment were deterrent. Criminals were treated inhuman and the bloody code²¹ was followed in primitive English society where trivial offences were provided capital punishments. This system, with the progression of criminology, and the development in people’s perspective gained several criticisms. So, a new ideology was brought into existence. The scholars advocated for reformative punishments which could also take away the thought of revenge conceived for giving such harsh punishment on the side of criminals.

This ideology resulted in today’s punishments like imprisonment, fine, borstal schools, solitary confinement, rigorous imprisonment, while capital sentences are given in the rarest of rarest cases as ruled by the Hon’ble Supreme court in the case of Bachan Singh vs. state of Punjab.²²

EVOLUTION IN LEGAL ENFORCEMENT :

Law is to regulate offences; it is obliged to conceive alongside crimes. This situation has become so demanding as several new crimes are being contrived. When criminals evolve to come up with new kinds of crime, criminologists should think greater ideas as to predict what

²¹ Wilf, Steven, *Law’s Imagined Republic: popular politics and criminal justice revolutionary, America* (2010) ISBN 9780521145282

²² Bachan singh v. state of Punjab (1980) AIR SC 989

could those crimes possibly be and also by including several other aspects such as ‘what causes the situations for that crime to happen?’ ‘What punishment can be given to reform him?’

Before codification of laws, every act that was identified as crime was punished at the discretion of the king. The concept of crime is dynamic. During 12th and 13th centuries, the acts committed against that states only were considered as crime. Thus, murder was not a crime during those times.²³ Primitive societies did not distinguish criminal law and the law of torts but they were only aware of “law of wrongs” it has also been commented by Frederick Pollock and Maitland that, people prior to the tenth century often confused crime with torts.²⁴

In the history of crime, a significant period was between 1000 AD to 1200 A.D. During this period criminals were identified through the system of “ordeal²⁵.” This system, prevailed dominantly due to the existence of strong religious and superstitious belief during that era.

Law has much developed since then. During the nineteenth century, the coding of criminal law began. Punishing a crime with an appropriate punishment becomes necessary because, as previously discussed, researching about the aspects of a crime, also includes punishing the criminals so that the same act does not happen in future which is the main aim of criminology which mandates the *enactment of an act*. Those acts which were crimes before codification, but left out in these enactments are not crimes anymore. The further improvement in these enactments were that, the crimes were classified in detail. One ideal paradigm that can be specified here is the *classification of crimes* under the Indian Penal Code, 1860 as offences against (i) person (ii) property (iii) documents (iv) mental order (v) public tranquility (vi) state (vii) public servants.

²³ Oppenheimer’s book on “*Rationale of punishment*”

²⁴ Radcliffe & Cross: *The English Legal System* (1954) p.6.

²⁵ An ancient test of guilt wherein the accused is exposed to red hot iron or other impossible painful task, the survival of which he will be proved innocent.

Now every crime and its respective punishments are being enacted. This helps in rendering absolute justice such that, no man shall be punished in excess of the crime he has done. Deep study in criminology and classifications of crime have contributed a lot to achieve such perfection.

One of the best examples that can be quoted here is, the law enacted in the state of Maharashtra that gives appropriate punishment for practicing witchcraft through the *Anti-Superstition and Black Magic Act*²⁶ that provides a punishment of seven years imprisonment and a fine up to ₹50,000. While in the late 16th century, people practicing witchcraft were burnt alive, hanged or beheaded²⁷.

As of July 2022, there are about 839 central legislations as reported by the online repository organized by the ministry of law and many other further legislations enacted by the state²⁸. The enactment of law also keeps up the pace to develop according to today's requirements. The cyber crime wing which has not been there earlier, is now of very much importance. The Information Technology Act, 2000²⁹ provides various punishments for crimes related to technology, which is a noteworthy development.

It can be seen that enactment of laws and classification of crimes and punishing them with appropriate punishment requires a lot of diligent research and study which are also a progress in the evolution of criminology.

SUGGESTIONS

²⁶ Maharashtra Act No. XXX of 2013

²⁷ Geoffrey Scarre; John Callow, *Witchcraft and magic in sixteenth and seventeenth century Europe*. (Basingstoke: palgrave publishers) (second ed) (2001). ISBN 9780333920824

²⁸ Online repository of central legislations available at: "India Code: Browsing DSpace". www.indiacode.nic.in. Retrieved 26 July 2022. (visited on August 21, 2022)

²⁹ Indian Parliament Act No.21 of 2000

- i. Better means of preventive measures can be brought up by analyzing more crime prone areas. People of different societies have different reasons for commission of crime. Their grievances should be redressed. Crimes due to poverty, can be prevented by giving an upgradation in the economical status of the poor people.
- ii. Illiteracy shortens the chances of knowing what is good and what is wrong to a child, thus creating a child in conflict with law. Educating juveniles in borstal schools can prevent future crimes and rehabilitates their lives. Along with education, the seriousness and consequences of the crime to their family should be stressed not only for juveniles but also for every prisoner.
- iii. “ Understanding helps to know better.” personal talks and counselling with criminals can help in better understanding of the cause of crime from the perspective of the criminals which helps the criminologists to come up with better ways to prevent crimes.

CONCLUSION

It is now obvious that, criminology has evolved much greater and definitely plays a prominent role in the enforcement of law in the society. It's evolution according to the evolving technological aspects of crime should be given credits.

It is also indispensable that law should grow more eminently than crimes. Though the development of criminology is remarkable, the crimes of today's society do shoot up more than ever. Criminology has also come up with various evolution as to keep in pace with the changing perspectives of the society but at the same time, it is the our responsibility to do our duties and follow the regulations to promote peace in the society where we live in. There is no perfect society but it's not that hard to try.