

The Sociology of Crime and Deviant Behaviour: Emerging Issues in Criminal Jurisprudence

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Abstract: *The sociology of crime presents not one but many theoretical perspectives. These will be examined in relation to the contemporary trends of crime in our society bearing in mind of the repeated caution that 'the direct transference of many criminological theories developed in the industrial nations may well be totally inappropriate in a developing country.'*

It is in the nature of man to strive for advancement. Were it not so, he would stagnate, decay and perish. Aspirations which make man unique tend to proliferate in gradually ascending levels with increasing impact of knowledge.

According to Emile Durkheim, crime was a fact of life. He argued: 'A society without criminality would necessitate a standardization of the moral conceptions of all the individuals which is neither possible nor desirable. On the other hand, if there were no system of moral repression, a system of moral heterogeneity would exist which is irreconcilable with the very existence of society.' If crime is inevitable, what then is the rationale of punishment? Punishment is also a social necessity because it is the only instrument which strengthens the value system and supports the structural stability when aspirations are pitched too high and associated with industrial societies which are in a chronic state of 'anomie'. His thesis was that if men are driven by unattainable goals, the resulting sense of frustration leads to adoption of 'illegitimate' avenues of achieving them.

Although, in the existing class structure, the lower classes are numerically very large and consequently the bulk of traditional crime is traced to them, the extensive manifestations of white collar crime and power crimes by the numerically smaller but comparatively favored section preclude generalization, the only difference being in relation to the choice of the type of 'legitimate avenues'.

The Dalits who occupy the lowest rung of the caste ladder and other economically deprived section of the society grouped generically under 'weaker' sections have been the victims of age-old socially tyranny and economic exploitation. The 'atrocities' on Dalits are typical manifestations of social disorganization. It is the overwhelming sense of social injustice which weakens legitimacy of a social order or the institutions created by it. When the feeling is widespread, it leads to revolt. On a lower scale it is diffused as traditional criminality.

The author through this article traces the concept of sociology of crime and its perspective in Indian context..

Keywords: Crime, Society, Subculture, Social disorganization, Violence

I. INTRODUCTION

The sociology of crime is the study of the making, breaking, and enforcing of criminal laws. Its aim is to understand empirically and to develop and test theories explaining criminal behavior, the formation and enforcement of laws, and the operation of criminal justice system.

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many criminological theories developed in the industrial nations may well be totally inappropriate in a developing country.¹

The roots of modern criminology can be found in the writings of social philosophers, who addressed Hobbes's question: "How is society possible?" Locke and Rousseau believed that humans are endowed with free will and are self-interested. If this is so, the very existence of society is problematic. If we are all free to maximize our own self-interest we cannot live together. Those who want more and are powerful can simply take from the less powerful. The question then, as now, focuses on how is it possible for us to live together. Criminologists are concerned with discovering answers to this basic question.

Locke and Rousseau, philosophers who are not considered criminologists, argued that society is possible because we all enter into a "social contract" in which we choose to give up some of our freedom to act in our own self-interest for the privilege of living in society. What happens though to those who do not make, or choose to break, this covenant? Societies enforce the contract by punishing those who violate it. Early societies punished violations of the social contract by removing the privilege of living in society through banishment or death. In the event of minor violations, sanctions such as ostracism or limited participation in the community for a time were administered. The history of sanctions clearly demonstrates the extreme and frequently arbitrary and capricious nature of sanctions (Foucault 1979). The Classical School of criminology (Beccaria 1764; Bentham 1765) began as an attempt to bring order and reasonableness to the enforcement of the social contract. Beccaria in *On Crimes and Punishments* (1768) made an appeal for a system of 'justice' that would define the appropriate amount of punishment for a violation as just that much that was needed to counter the pleasure and benefit from the wrong. In contemporary terms, this would shift the balance in a cost/benefit calculation, and would perhaps deter some crime. Bentham's writings (1765) provided the philosophical foundation for the penitentiary movement that introduced a new and divisible form of sanction: incarceration.

With the capacity to finally decide which punishment fits which crime, classical school criminologists believed that deterrence could be maximized and the cost to societal legitimacy of harsh, capricious, and excessive punishment could be avoided. In their tracts calling for reforms in how society sanctions rule-violators, we see the earliest attempts to explain two focal questions of criminology: Why do people commit crimes? How do societies try to control crime? The "classical school" of criminology's answer to the first question is that individuals act rationally, and when the benefits to violating the laws outweigh the cost then they are likely to choose to violate those laws. Their answer to the second question is deterrence. The use of sanctions was meant to discourage criminals from committing future crimes and at the same time send the message to non-criminals that crime does not pay. Beccaria and Bentham believed that a "just desserts" model of criminal justice would fix specific punishments for specific crimes.

In the mid-nineteenth century the early "scientific study" of human behavior turned to the question of why some people violate the law. The positivists, those who believed that the scientific means was the preeminent method of answering this and other questions, also believed that human behavior was not a product of choice nor individual free will. Instead, they argued that human behavior was "determined behavior," that is, the product of forces simply not in the control of the individual. The earliest positivistic criminologists believed that much crime could be traced to biological sources. Gall (Leek 1970), referred to by some as the "father of the bumps and grunts school of criminology," studied convicts and concluded that observable physical features, such as cranial deformities and protuberances, could be used to identify "born criminals." Lombroso (1876) and his students, Ferri and Garofalo, also embraced the notion that some were born with criminal constitutions, but they also advanced the idea that social forces were an additional source of criminal causation. These early positivists were critics of the Classical School. They did not go so far as to argue that punishment should not be used to respond to crime, but they did advance the notion that punishment was insufficient to prevent crime. Simply raising the cost of crime will not prevent violations if individuals are not freely choosing their behavior. The early positivists believed that effective crime control would have to confront the root causes of violations, be they biological or social in nature.

Around 1900, Ferri gave a series of lectures critiquing social control policies derived from classical and neo-classical theory. What is most remarkable about those lectures is that, considered from the vantage point of scholars at the end of

¹ Marshal B. Clinard and Daniel J. Abbott, *Crime in Developing Countries*, New York, John Wiley and Sons, 1975.

the twentieth century, the arguments then were little different from public debates today about what are the most effective means of controlling crime.

Then, as now, the main alternatives were “get tough” deterrence strategies that assumed that potential criminals could be frightened into compliance with the law, versus strategies that would reduce the number of offenses by addressing the root causes of crime. We know far more about crime and criminals today than criminologists of the late nineteenth and early twentieth century knew, yet we continue the same debate, little changed from the one in which Ferri participated in.

Today the research of sociological criminologists focuses on three questions: What is the nature of crime? How do we explain crime? What are the effects of societies’ attempts to control crime? Approaches to answering these questions vary greatly, as do the answers offered by criminologists. For example, the first question, what is the nature of crime, can be answered by detailing the characteristics of people who commit crimes. Alternatively, one can challenge the very definition of what crime, and consequently criminals, are. In an attempt to answer this question, some criminologists focus on how much crime there is. But of course, even this is a difficult question to answer because there are many ways to count crime, with each type offering different and sometimes seemingly conflicting answers.

Social Disorganization

According to Emile Durkheim, crime was a fact of life. He argued: ‘A society without criminality would necessitate a standardization of the moral conceptions of all the individuals which is neither possible nor desirable. On the other hand, if there were no system of moral repression, a system of moral heterogeneity would exist which is irreconcilable with the very existence of society.’² If crime is inevitable, what then is the rationale of punishment? Punishment is also a social necessity because it is the only instrument which strengthens the value system and supports the structural stability when aspirations are pitched too high and associated with industrial societies which are in a chronic state of ‘anomie’. His thesis was that if men are driven by unattainable goals, the resulting sense of frustration leads to adoption of ‘illegitimate’ avenues of achieving them.

Durkheim’s interest in criminology was peripheral. It was left to Merton to elaborate on the precise manner in which criminality emerges in a state of social disorganization. He took into account the cultural factors which were either deliberately or inadvertently omitted from Durkheim’s analysis.

The point is well made by Cloward and Ohlin: Describing deviant behavior as “a symptom of dissociation between culturally prescribed aspirations and socially structured avenues” of realizing they said: “The cultural structure consists of goals and norms, the approved ends towards which men orient themselves and the approved ways in which they reach out for these ends. The social structure consists of the patterned sets of relationships in which people are involved.”³ Anomie emerges “not because of the breakdown in regulation of goals alone, but rather, because of the breakdown in the relationship between goals and legitimated avenues of access to them.”⁴

It is in the nature of man to strive for advancement. Were it not so, he would stagnate, decay and perish. Aspirations which make man unique tend to proliferate in gradually ascending levels with increasing impact of knowledge. While Durkheim ascribed social disorganization to economic crises, Merton’s refinement perceived the intrinsic pressures in any social order which demand adjustment between aspirations and legitimate opportunities and determined the various levels and points in the social structure at which anti-social conduct is activated due to maladjustment. The gap between aspirations and the means compels an otherwise law-abiding person to opt for illegal means. “It is only when a system of cultural values extols, virtually above all else certain common success goals for the population at large, while the social structure rigorously restricts or completely closes access to approved modes of reaching these goals for a considerable part of the same population, that deviant behavior ensues on a large scale.”⁵

² Emile Durkheim, *The Rules of the Sociological Method*, Glencoe, Free Press, 1958, 8th ed.

³ Richard E. Cloward and Lloyd Ohlin, *Delinquency and Opportunity*, New York, Free Press, 1962.

⁴ Ibid. Durkheim’s theory of anomie was intended to develop a general theory of criminal behavior. This was done later by Merton in his “Social Structure and Anomie”, published originally in the *American Sociological Review*.

⁵ R.K.Merton, *Social Theory and Social Structure*, Glencoe, Free Press, 1957, p.146.

Extending the theory of Anomie, Merton observed: "Recourse to legitimate channels for 'getting in the money' is limited by a class structure which is not fully open at each level to men of good capacity."⁶ It was, therefore, predicted that the pressures to deviant behavior would be maximum in the lower levels of society.⁷ Although, in the existing class structure, the lower classes are numerically very large and consequently the bulk of traditional crime is traced to them, the extensive manifestations of white collar crime and power crimes by the numerically smaller but comparatively favored section preclude generalization, the only difference being in relation to the choice of the type of 'legitimate avenues'.

"When a social system generates severe problems of adjustment for the occupants of a particular social status, it is likely that a collective challenge to the legitimacy of the established rules of conduct will emerge. This is especially likely where a democratic ideology exists, espousing equality of opportunity."⁸ The Dalits who occupy the lowest rung of the caste ladder and other economically deprived section of the society grouped generically under 'weaker' sections have been the victims of age-old socially tyranny and economic exploitation. With their awareness generated by development through democratic processes, there is a new perception of the 'immutability' of their position, a questioning alienation, conflict and deviance, and mutually hostile forms –one in the nature of revolt against the existing order and the other as resistance on the part of the system itself to perpetuate its own values and protect interests. The 'atrocities' on Dalits are typical manifestations of social disorganization. It is the overwhelming sense of social injustice which weakens legitimacy of a social order or the institutions created by it. When the feeling is widespread, it leads to revolt. On a lower scale it is diffused as traditional criminality.

Culture Conflict

Observing the relationship between crime and culture, Thorsten Sellin said: "Among the various instrumentalities which social groups have evolved to secure conformity in the conduct of their members, the criminal law occupies an important place for its norms are binding upon all who live within the political boundaries of a state and are enforced through the coercive power of the state. In some states these groups may comprise the majority, in others a minority, but the social values which receive the protection of the criminal law are ultimately those which are treasured by dominant interest groups."⁹ Culture conflict is thus no more than individual or group reaction to the general conduct norms as specified in criminal law and manifests in diverse ways in the process of change and interaction of different cultural codes. In specific terms Sellin tried to explain that conflicts arise when these codes clash on the border of contiguous culture areas.¹⁰

An overview of cultural factors in relation to crime in India cannot be complete without a brief reference to Dalits with their distinct and socio-cultural background. Confined to exclusive territorial limits and physically isolated from the mainstream national life, they are islands unto themselves. The national policy is somewhat ambivalent in regard to Dalits, and aims at drawing them into the national mainstream while assisting them simultaneously to maintain their cultural autonomy. The process has occasionally led to serious disruption and upheavals.

Sub-cultural Theories

Starting from the concept of social disorganization, sociologists have highlighted acute competition and limited opportunities as the basic feature of a subculture of delinquency. A subtle distinction between subculture of delinquency and delinquent subculture is made by Matza who projects it as "an oppositional response to the pious legality of bourgeois existence" while the former consists of "perception and customs that are delicately poised between convention and crime."¹¹

⁶ Ibid.

⁷ R.E. Cloward and L.A. Ohlin, op. cit.

⁸ Ibid.

⁹ Thorsten Sellin, Culture, Conflict and Crime, Social Science Research Council, New York, 1938.

¹⁰ Ibid.

¹¹ David Matza, Delinquency and Drift, New York, John Wiley and Sons, 1964.

A subculture has been defined as “a subdivision of a national culture, composed of a combination of factorable social situations such as class, status, ethnic background, regional and rural-urban residence, and religious affiliation, but forming in their combination a functional unity which has an integrated impact on the participating individual.”¹² It is, however, necessary to distinguish between a sub-society represented by a major religious, ethnic or linguistic group or smaller units within each such system determined by narrower affiliations of caste or occupation. In a plural society, sub-cultural parameters can be traced even to nuclear groups and it may be more advantageous to analyze the differentials in attitudes trichometrically between the main culture, the sub-culture and group culture.

In a strict sense of the term, criminal subculture is a primary feature of Indian criminal tribes and castes which have been statutorily decriminalized now but some of whom continue to adhere to their traditional values. In the present context, however, we are thinking in terms of the vast number of people who do not belong to a sub-cultural ethos as a member of the de-notified tribes did, but a host of delinquents who emerge at different points of time and at different social levels through structural pressures.

Subculture of Violence

Delinquent subcultures have been classified into three categories: criminal, violent and retreatist.¹³ Here again the existential aspects of culture itself have not been fully considered, the emphasis being on the emergence of such subcultures in a particular milieu. This distinction is important, because certain groups have already developed sub-cultural traits of violence of retreatism, by virtue of historical developments.

Wolfgang and Ferracuti put forward the thesis of a subculture of violence suggesting that “there is potent theme of violence current in the cluster of values that make up the life-style, the socialization process, and the inter-personal relationships of individuals living in similar conditions.”¹⁴ It is well known that aggressive attitudes from whatever cause they may originate are more pronounced in certain sections of a society. If such a group is homogeneous and has shared values regarding use or recourse to violence, we may designate it as sub-cultural because in a given situation, a member of that group by virtue of this temperament (personality) and acculturation (value system) may react more violently than another placed in a similar situation, Murder, represents the peak of violence. There are other types of violence –individual as well as group –which figure in the Indian Penal Code, prominent among which are rape, dacoity, robbery, grievous hurt and riots.

As Indian statistical reports do not furnish assaults separately but include them in the miscellaneous category, they are omitted in assessing the sub-cultural traits of violence. Riots are manifestations of group violence and reflect the interpersonal and intergroup tensions. Although, a number of them may occur often on transient issues and tend to distort the regional pattern, they have to be included for a realistic projection of violence.

Violence is thus is not a simple concept, although it can be reduced to simple definition in precise legislative terms. It is difficult to assess the manner in socio-cultural and psychological factors operate. Homicides committed in fits of passion or on sudden provocations are certainly moored in psychological drives. Murders are arising from land disputes, communal and caste outrages, personal vendetta are an intermixture of economic motivations and cultural conflicts. Sexual jealousy murders are again a projection of crystallized cultural attitudes and can be viewed in the light of the same syndrome which approved the barbarous practice of sati in the past. Although in a recent study it was noticed that murder is a lower-class phenomenon; murders at high places are not unknown in which all the above nuances of motivation appear.

The upper class murdered does not soil his hands with blood but has no hesitation to hire an assassin. The small numbers of murders in the higher social classes are due to the fact that their universe is small, but if a comparison is drawn of the two populations, not much discrepancy may surface.

¹² The definition of Milton Gordon has been quoted from M.E. Wolfgang and F.Ferracuti, *Subculture of Violence*, London, Tavistock Publications, 1967.

¹³ M.E. Wolfgang and F. Ferracuti, op.cit.

¹⁴ Ibid.

Although dacoity, one of the important forms of violence has an economic base, the importance of a tradition which extolled the dacoits as Baghis –revolutionaries against an exploitative order cannot be minimized. There is an element of continuity in the distribution of violence which can be ascribed to culture transmission, learning and traditionality. Observing that the highest rates of homicide occur among relatively homogeneous sub-cultural groups, Wolfgang and Ferracuti contend that the value system of such groups constitutes a sub-culture of violence and these can be related to social class and psychological correlates. “The more thoroughly integrated is the individual into this sub-culture, the more intensely he embraces the prescriptions of behavior, its conduct norms and integrates them into his personality structure.”¹⁵

Retreatism

The proponents of sub-cultural theories have projected retreatism one of the components of delinquent sub-culture, a serious form of which is drug addiction. The ingredients of retreatism have been well stated by Merton: “Retreatism arises from continued failure to near the goal by legitimate measures and from the inability to use the illegitimate route because of internalized prohibitions, the process occurring while the supreme value of the success goals has not yet renounced. The conflict is resolved by abandoning both precipitating elements, the goals and the norms. The escape is complete, the conflict is eliminated, and the individual is socialized.”¹⁶

The Indian society is perhaps one of the rare social organization which approves of and extols retreatism. Among the four prescribed life orders in chronological sequence is the final state of renunciation which is total isolation from the world of reality, but an individual may experience an acute sense of retreatism much earlier in life due to failure and frustration. The sadhu in his saffron robes is a familiar sight in the country. That many of them may be drug addicts and some of them use their ‘spiritual’ avocation to exploit the gullible and the superstitious is not relevant here. The two major features of retreatism which may be viewed as antisocial are beggary and parasitism. In a country in which the primary problem is one of escalating population, the withdrawal of even a million people may not matter.

Differential Association

E.H. Sutherland’s theory of differential association in its final forms calls for a detailed examination not only because of its relevance to some forms of crime in India, but also because of its close relationship with the concepts of social disorganization and sub-cultural theories. It has been designated as ‘integrative’ since it recognizes of the importance of the various factors in crime causation and uses them to build a model of the learning process and experiences in relation to criminal behavior. Simply stated, the theory postulates that criminal behavior is learned through interaction within intimate personal groups. The process of learning covers not only the skills and techniques of criminal activity but also the ‘specific direction of motives, drives, rationalizations and attitudes’ which, in turn, are drawn from the perception of legal codes.¹⁷ It also postulates that differential associations vary in frequency, duration, priority and intensity which determine the nature of response. It is worth noticing that there is nothing special about the learning processes which are common to all types of behavior.

Although, some critics do not see the relevance of the theory to white collar crime and corruption, the issue is certainly debatable. White collar crime emerges in closed groups whose goals and attitudes are reinforced through successful examples. The techniques are developed and refined through learning which becomes a part of the professional training of the successful businessman. The main criticism against the theory in relation to white collar crime has been forcefully stated by Mannheim that Sutherland’s conception of diffusion of illegal practices is not a valid example of the learning process but of the ‘imitative effect of competition.’¹⁸

Mannheim thus introduces an element of compulsion which is only partly true since it ignores that imitation itself is learning. He is however on much stronger ground when he attacks the theory because of its apparent neglect of

¹⁵ M.E. Wolfgang and F.Ferracuti, op.cit.

¹⁶ R.R. Merton, op.cit.

¹⁷ E.H. Sutherland and D.Cressey, Principles of Criminology, J.B. Lippincott and Co., p.77.

¹⁸ Hermann Mannheim, op.cit.

economic factors. Sutherland's contention that 'the general theories of criminal behavior which take their data from poverty and the condition related to it, are inadequate and invalid' cannot be accepted without reservations.¹⁹

Having considered the major sociological approaches, a passing reference may be made to the more recent theories. Reckless attempted a general explanation of crime in relation to the pull and push factors to which an individual is subjected in his environment. His containment theory tries to combine the psychological and sociological view points; it facilitates an analysis of the inner personality forces that propel a person to commit crime and, at the same time, permits an examination of the socio-cultural forces that shape this personality.²⁰ Matza believed that delinquency is a process of drift and tried to revive classical positivism through 'soft determination.'²¹

The crime spectrum in contemporary Indian society covers a wide-range of criminal offences of varying degrees of seriousness as perceived by the dominant group. The offenders are drawn from all sections and levels of society, and their association with different forms of crime is related directly or indirectly to their class and culture, their needs and aspirations, frustrations and opportunities. To this extent the concept of a criminal sub-culture confirms that 'there are groups within society, probably much larger and more deeply affecting its well-being than the small stage army of professionals, people who are neither downright antisocial, nor altogether honest, but honest in certain situations and dishonest in others.'²²

II. CONCLUSION

What does the sociological perspective finally reveal? It projects a composite picture of crime of varying degrees of seriousness and artificiality as a conglomeration of deviant acts of man in the social setting in which he is located. This heterogeneous collection consists of crimes of violence, crimes against property, white collar and consensual crimes and a host of legal infractions. For some, the visibility level is high and for others it is extremely low. The motivational levers are many and the classifications made to describe them are labored.

Crime is an acute form of deviance which means digressing from what it is considered normal. Human behavior in any society is determined by four major external factors and these are culture, power, economy and the law.

It is basic to the sociological approach to crime that it perceives it as a phenomenon caused and determined by numerous factors; therefore, it is not a single theory but many theories which are needed to explain it. The sense of frustration one glimpses in modern sociological writings is perhaps irrelevant. The inadequacy arises because sociology, being concerned primarily with the study of societies in their existential form, accepts to some extent the fundamental immutability of social structures. This is not to say that sociology does not concern itself with social change.

More than the above inhibition, the disregard of the strength and power of the economic system on criminality which emerges as the weakest feature of the sociological perspective. Although the economic aspects of crime appear to enter into it, the emphasis is superficial. When sociologists talk of alienation, and anomie, the world of economics is out of focus. Since all social structures have economic roots, the sociological perspective, with all its embellishments and attractive theoretical constructs, remains constricted, and has not been able to make any impressive impact in the area of crime control.

¹⁹ E.H. Sutherland and D.Cressey, op.cit.

²⁰ Walter C.Reckless, *The Crime Problem*, New York, Appleton-Century Crofts, 1967.

²¹ David Matza, op.cit.

²² Hermann Mannheim, *Group Problems in Crime and Punishment*, London.