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## **Is crime a symptom of wider malaise of a society?**

**Abstract.** This article tries to find out could crime as well as criminals be a symptom of wider malaise of a society from the perspectives of the positivist school of criminology and social control theory.

**Keywords:** social control theory; crime; criminology; positivist school; society; public perception; sociology; socialization; criminal conduct; victimology.

### **Ссылка для цитирования этой статьи:**

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Such a well-known phenomenon as a crime cannot be separated from human nature and society, all the more so “the theories of the origin of criminal law parallel rather closely general theories of society” [8, p. 8], and, in some ways, reflect the processes running within a community or a person’s mind. Therefore, straight from the start, it should be examined what is crime, how various types of crimes may be interpreted by people, what makes victims keep silence, and how it influences the number of crimes recorded by the police. All these factors are very important for understanding and critical analysing the findings, the views, the models, and the doctrines of the positivists and the control theorists. After that, the basics of biological and psychobiological positivism will examine in searching for probable ways to take social control over the egoistic self. This is one of two aspects of a person, which was described by Emile Durkheim, ‘the father figure of sociology’, and identified as a main source of criminal, abnormal and delinquent behaviour by other control theorists. It will allow attentively look at such constructs as ‘norm erosion’ and ‘social failures’ for final reviewing and summing up all the arguments, viewpoints, proofs and opinions.

So, what is a crime? According to The Sage Dictionary of Criminology, a crime is “an act which shocks the common or collective morality, producing intense moral outrage among people”, and “in both scholarly and public opinion, crime is associated with harm and violence.” [11, p. 3]. Jeremy Bentham “declared that only harms to others should be criminal offences” [18, p. 59]. Cesare Beccaria also “identified three categories of crime based upon the seriousness of their harm to society – against the state, the security and property of individuals and against the public peace” [18, p. 59]. Following them, Hopkins Burke [13, p.5] suggested that the “definition of crime and thus criminality are closely linked to socio-political factors and how people view the nature of society”. In other words, a society creates the theoretical concept of crime and provides an official response to it; however, it is only for people to decide which events can be considered crimes.

It makes sense, but “can we separate what is legally a crime from what we feel ought to be a crime?” [11, p. 6]. The labelling theory of Howard Becker stated that the different social groups tend to identify troublesome situations and individuals differently, and, as a rule, their decisions are not strongly connected to the criminal laws. This is one of the reasons why “for all categories of crime recorded, many crimes committed simply do not end up in police records” [4, p.10]. Jones [14, p. 33-34] believed that the level of unreported crime is not constant and the main factor affecting the recorded level of crimes is victim’s willingness to let the police know of what has happened. Mostly, victims think that the police is unable to help them during an incident or to protect them from an offender’s retaliation after it, so they would rather remain silent. This turns into the vicious circle with no alternative. Secondly, victims may know who is responsible for their suffering and do not want to see this person punished due to their relations. Thirdly, victims may be speechless because of their age or physical disabilities, or else may not have permission from their families or communities to speak openly about what they have gone through. There are many cultures having its own methods to solve any problem that may be recognized as a crime by law as well as a strong tradition of solidarity and concealment.

Thus, it is evident that there is no visible line drawn in the eyes of the public between an act that might be a crime and an act that is a crime. Besides, any act alleged to be a crime is initially “determined by multiple factors, resulted from the free will of individual criminal and caused by features within the individuals” [16, p. 16]. The positivist school of criminology regards the biological, psychological or social conditions of all the individuals as such factors in contrast with the control theorists traditionally asking, “Why do men obey the rules of society?”. Also, the positivists assume that the “most social problems can be understood and treated through the ‘positive application of science’” [18, p. 212].

As it is known, “the modern search for multiple-factor explanations of crime is attributed to Cesare Lombroso” [16, p. 16], who developed the idea of criminality as a disease and criminals as a

form of anatomic, social and psychological degeneracy. His idea was developed in Raffaele Garofalo's doctrine of 'natural crimes' with such an argument as "some members of society might have a higher sense of morality because they are 'superior members of the group'" [16, p. 21] and in one of early Enrico Ferri's works where he denied the existence of the free will. It means that all people, without exception, are under control of their instincts, desires, and needs, but some of them are defective from birth and doomed to become offenders whereas a majority of individuals are able to demonstrate the high level of 'moral energy' and be a full-fledged part of society. Garofalo stated that the individuals with the low level of 'moral energy' must be eliminated due to their "inability to live by the basic human sentiments necessary for society to survive" [16, p. 22]. The reason for that is that "a failure to punish crime is wrong and a community that does not punish criminals is derelict in its moral duty" [10].

Sigmund Freud and his colleague stood by the statement, which says that "all behaviour is motivated and purposive, but not all desires and behaviour are socially acceptable, so they must be repressed for the sake of morality and social order" [16, p. 25]. So, crime is "a symbolic expression of inner tensions that each person has but fails to control" or has "learned self-control improperly" [16, p. 25]. Additionally, human behaviour "could be influenced by environmental factors such as an alcohol and the fact that criminality was endemic to the population" [16, p. 21]. Social learning theory goes that there is "the reciprocal relationship between the persons and their environment" [18, p. 279], so those, who have a natural inclination for a criminal way of living, simply are unable not to break the laws of a society. In any case, the most positivists believe that if "people are controlled in some special manner by their biological and psychological characteristics, in this way criminal behaviour can be more effectively predicted and controlled" [7, p. 111].

Which way? Social control theory "is suggesting that something special happens to prevent people acting out whatever impulses they may possess" [23, p. 205]. That is why "non-conformity such as crime and delinquency is to be expected when social controls are less than completely effective" [16, p. 71], and any "deviant behaviour is more likely to be minimised by social control mechanisms" [8, p. 96]. Moreover, Emile Durkheim in one of his works considered two equal in rights aspects of any person that determine this person's behaviour. The first of which is "the social self that looks to society and is a product of cultivation of the 'civilized' member of a community", and the other is "the egoistic self that incomplete without society and is full of impulses knowing no natural limits" [16, p. 73]. Thereby, if there is no balance between them and the egoistic self dominates, it is more than possible to go against the social expectations and norms for such an individual.

Charles H. Cooley's concept of 'looking-glass self' pointed out that "the child would not develop a sense of self without feedback provided by others serving by mirror" [16, p. 74], so it seems that the only way to prevent the egoistic self from developing is socialization. On the other hand, "socialization is directed largely at the personality of the role player, social control is directed more at the behaviour of the role player" [2, p. 17], and, what is more interesting, "the law usually punishes individuals for positive conduct and not for inaction" [24, p.12]. Basically, a society does not look at inaction as criminal, delinquent or illegal behaviour. However, if people are driven by their personal characteristics and "conformity is a largely self-explanatory adaptation whereby people tend to accept the cultural goals of society" [13, p.107], would not it mean that there is something wrong with a society and its rules in general?

Enrico Ferri, one of positivists, believed that "individuals must be legally responsible for their actions" [16, p. 19], any sort of actions, and the crime control system is understood as "a system of criminal justice which has as its primary aim the need to repress crime conduct" [18, p. 61]. Therefore, this social phenomenon in concordance with the ideas of Walter C. Reckless may be called 'norm erosion' and described as "alienation from, emancipation from, withdrawal of legitimacy from, and neutralization of formerly internalized ethics, morals, laws, and values" [20, p. 476]. What is more, if

“it is a social choice to recognize such and such an event as a crime, or such and such a person as a criminal” [11, p. 12], then this may explain victims’ silence as well as the number of unreported crimes and hidden public indignation. Also, it may be an symptom of a malaise of mankind’s moral health. “The people who are regarded as moral luminaries are those who forego ordinary pleasures themselves and find compensation in interfering with the pleasures of others. We have, in fact, two kinds of morality side by side: one which we preach but do not practice, and another which we practice but seldom preach.” [21, p. 17].

At the same time, it is difficult to argue with the Chicago School, which admitted that “not only social disorganization but personal disorganization resulting from fundamental problems in the formation” of the egoistic self [16, p. 75]. Theodor Hobbes [12, p.247] wrote in his book that “fear... it is the only thing, when there is appearance of profit or pleasure by breaking the laws, that makes men keep them”. Undoubtedly, social control is a very effective method to regulate the community’s level of criminalization, under the stipulation that people of this particular community are adequately socialized, but Durkheim confessed that “a society that had no crime would be ‘pathologically overcontrolled’” [8, p. 4]. So, in some ways, social control is also a double-edged sword. Gottfredson and Hirschi [9, p. 45] introduced the image of offenders as social failures in their the model of self-control and it is accordant with the views of the positivists on offenders as social pathology. Thus, it may be said that crime and criminals are a proof of wider malaise of a society, its foundations, laws, norms and traditions in whole.

Norwegian criminologist Nils Christie [5, p. 3] affirmed that in fact “crime does not exist; only acts exists, acts often given different meaning within various social framework” and “our challenge is to follow the destiny of acts through the universe of meanings.” Considering that any definitions of crime tend to reflect the public opinion, it does not matter how the criminal law looks at any event, which is supposed to be crime, only people can detect what is crime and what is not or who is criminal or who is not. Nevertheless, there always is danger of losing objectivity in assessing it all as far as different individuals have different views on the same things due to their cultural backgrounds, traditions, expectations and norms. However, their attitude influences the statistical level of reported and unreported crimes and the decisions of victims to keep silence or tell openly of what has happened to them.

The positivists claimed that if “society is a ‘natural body’, crimes and offences are ‘against the law of nature’, therefore, criminal action is a crime against nature” [16, p. 21], so, in this case, criminality is a disease of a society as well as criminals are its degeneracy. Plus, “all positivists see people as essentially compelled to commit crimes because of their biological, psychological or social conditions” [7, p. 114] and agree that human behaviour is motivated and may be depended on such environmental factors as alcohol or normality of criminality among members of a community. On the other hand, social control theory stated that deviant motivation and any delinquency may be controlled through the socialization of individuals from childhood. All the more so although people are able to accept the cultural goals of society, it may lead to inaction, which is not punished by law as opposed to any criminal activity. Practically, this is hidden social ‘norm erosion’. Italian positivist Cesare Lombroso tried to prove that offenders are ‘social pathology’ and such famous control theorists as Michael Gottfredson and Travis Hirschi created in their work the image of offenders as social failures. Raffaele Garofalo strongly recommended eliminating them, to his personal opinion, “their death would contribute to the survival of society” [16, p. 22], but it did not change the fact that this is a sign of wider malaise of society and its basics.

In conclusion, it is necessary to remind that “the first step of any intellectually rigorous enquiry into matters of crime and deviance must be to suspend a commonsensical acceptance of these categories and to investigate the social relationship, ideologies and contexts which combine to form them and give specific meaning” [22, p.26]. For the simple reason that the fundamentals of the criminal

law are closely connected with the general theories of society, there is no law without a society, and the final meaning of crime and criminals is defined by the structure and the members of a community. Besides, “the price which society pays for the law of competition, like the price it pays for cheap comforts and luxuries, is great; but the advantages of this law are also greater still than its cost – for it is to this law that we owe our wonderful material development, which brings improved conditions in its train. But, whether the law be benign or not, we must say of it: It is here; we cannot evade it; no substitutes for it have been found; and while the law may be sometimes hard for the individual, it is best for the race, because it ensures the survival of the fittest in every department” [3, p. 655].

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## **Преступление – симптом общего неблагополучия общества?**

**Аннотация.** Данная статья пытается установить – может ли преступление, наряду с наличием в обществе преступников, быть симптомом общего неблагополучия социума с точки зрения криминологической школы позитивистов и через призму теории социального контроля.

**Ключевые слова:** теория социального контроля; преступление; криминология; позитивисты; общество; общественное восприятие; социализация; преступное поведение; виктимология.

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