

THE STATE OF CRIMINOLOGY: THEORETICAL DECAY OR RENAISSANCE*

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Abstract

Criminology has not done very well at explaining why some societies, some periods of history, some types of people, some types of cities have higher crime rates than others. This failure to explain has meant that criminologists have had little of use to say to policymakers. The failure to explain is linked to a weak commitment to theory in criminology, as reflected, for example, in the pages of the *Australian and New Zealand Journal of Criminology*. Tentativeness and nihilism on the question of theory have been products of our doubts that crime is a sufficiently homogeneous construct for explanatory purposes. I argue that these doubts may be misplaced. There may be little hope for a single general theory of crime. But at the very least, a number of competing general theories may supply useful policy heuristics to practitioners.

Introduction

A starving English slum dweller notices the baker's shop is unattended, grabs a loaf of bread to feed his family, is subsequently apprehended and transported to Australia as a convict.

A factory manager faces the choice between slowing down production to ensure that the company complies with environmental pollution laws or not worrying about the effluent and meeting her production target. She does not believe that to do the latter would be "criminal", merely a breach of an unreasonable standard imposed by an anti-business government; it is late at night, a time when she knows there is no chance of a government inspector appearing on the scene, so she lets the effluent flow.

A young black man is jilted by his girl-friend; he is angry, bitter, impulsive; he suffered some brutalising experiences in the Vietnam war where he participated in sexual torture of a village woman; he ingests some alcohol; he sees a woman alone in a dark street; he rapes and viciously bashes her.

Every crime event has a unique and complex causal history; the foregoing are simplified causal histories. A myriad of additional causes might have been added to each causal history, and each of these would itself have many causes; these are also causes of the crime; and they in turn have their causes. Even as simplified causal histories, the nature of the causes and the nature of the crimes seem so different as to defy the possibility of a general theory of crime. The conventional criminological wisdom of recent decades seems well founded — crime is so disparate a category and individual differences among criminals so great that general explanations are fantasies.

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Accepting this appearance has been, I will argue, a mistake for criminology. Even though crime events have quite different causal histories, it may still be that there are elements common to all, or most, without which crime would not have occurred. Disparate as the three illustrative causal histories are, at least one common causal element can be abstracted from all three — an illegitimate opportunity — the unattended loaf of bread, the chance to leak the effluent in the dead of night, the vulnerable woman on a dark street. Also we might abstract a blockage of legitimate opportunity from all three — the unavailability to the slum dweller of legitimate means of feeding his family; the blockage of legitimate means for the factory manager to achieve her production target; the denial of consensual sexual access to the rapist's girlfriend. Just as we can abstract common opportunity theory causes from these otherwise disparate causal histories, so we might abstract common differential association or social learning theory elements from all three. With all three, there may have been exposure to definitions favourable to crime — the social learning of the father that feeding his family is a higher loyalty than that to the criminal law; the rationalisations of the factory manager that pollution is not real crime; the legitimisation of sexual violence directed against women that the rapist had experienced in Vietnam.

In principle, a general theory of crime can be very powerful, even though it ignores all but one of the myriad causes in the varied causal histories of crime events. If that one cause is present in all causal histories that lead to crime and absent in all those that do not, then we have explained 100% of the variance in crime with our single-factor theory. And massive individual differences in propensity to offend and in the environmental contingencies confronted do not detract from this fact in the least. They do not detract from the fact that if we can change this factor, whatever else is going on, crime will not occur. And of course, to be useful, a general theory is not required to explain all of the variance in all types of cases, but some of the variance in all types of cases.

My first point is, therefore, that it is nonsense to suggest that because the behaviour subsumed under the crime rubric is so disparate, with such complexly different causal histories, general theories of crime are impossible. A theory of any topic X will be an implausible idea unless there is a prior assumption that X is an explanandary kind. To be an explanandary kind X need not be fully homogeneous, only sufficiently homogeneous for it to be likely that every or most types of X will come under one or more of the same causal influences. There is no way of knowing that a class of actions is of an explanandary kind short of a plausible theory of the class being developed. In advance, giraffes, clover and newts might seem a hopelessly heterogeneous class, yet the theory of evolution shows how the proof of the pudding is in the eating.

At this point, some may be willing to concede that a variable like availability of illegitimate opportunities will be a correlate of all types of crime, though a partial explanation because so many with illegitimate opportunities will decline to take them. Yet they will remain pessimistic about general theory because opportunity explanations or differential association explanations, while they might be general, are also banal. The challenge for theoretical criminology is to take such general, uncontroversial — banal if you will — explanations and give them the specificity of content which will ultimately build criminological theory into something that can supply the uninitiated with new insight into the explanation of crime. We should not walk away from the challenge because its foundations are banal; this very banality can give solidity to the foundations of the theoretical edifices we build.

Before moving on to a consideration of why criminology has failed to build sophisticated theories on the foundations of its banalities, I must deal more pointedly with what is most widely seen in the contemporary debate as the fundamental impediment to general positive theory. This is that what is crime is problematic. Crime is socially defined through processes of situationally negotiating meanings from subjective interpretations of social action. The last thing I would want to do is deny this. Nor would I challenge the observation that what is a crime is historically contingent; the content of the criminal code is the product of social conflicts settled differently in different societies and at different points in time within the same society.

What we must challenge is any contention that such observations demonstrate the impossibility or incoherence of general criminological theory. The second of our causal histories of crime was of the factory manager who believed that her pollution offence was not really crime, rather it was a minor breach of an unreasonable regulation. Let us assume that the courts would be clear in judging her action as criminal. "What is crime" was problematic for her; yet we saw that this created no particular difficulties in accounting for her action in the terms of opportunity or differential association theory.

What is a crime will always be contested by those accused of being criminals. Scholars who study the way offenders contest the social reality of crime must be wary of a dangerous kind of political partisanship. One can study the perceptions of convicted rapists that what happened was seduction rather than rape, that the victim gave him the come on, that she had "frothy knickers" (Taylor, 1972), that she was his wife who had always liked such treatment before, and one can conclude from the persistent repetitions of such accounts that the crime is so ambiguous and contested as to be a useless category of analysis. One can study the perceptions of business executives and their legal advisors that breaches of environmental or occupational health and safety laws are not really crimes, and conclude that the law is inherently tentative rather than fixed and certain in these areas. Yet we should not forget that we are talking to actors who have an interest in rendering the law ambiguous. We could equally talk to feminists or victims about rape, trade unions about occupational health and safety offences, environmental groups about pollution, to prosecutors or regulatory agencies. These constituencies might just as actively struggle to project clarity into the law as accused offenders struggle to project ambiguity. It is an enormously valuable type of scholarship to study the struggle between those with an interest in clarifying and those with an interest in muddying the criminal-non-criminal distinction. My first concern is that we do not get carried away with the interpretative work being done on one side of that struggle that leads us to misperceive the criminal law as nothing but shifting sand. Rather, the product of that interpretative struggle is a core area of uncontroversially criminal conduct with a fringe of shifting sand of varying widths depending on the domain of law — wide with tax law, narrow with robbery.

To get at that uncontroversial core of the criminal law, one might do better than to tap the perceptions of either rapists on the defensive or feminists on the offensive. One might be more interested in the interpretive work of actors who are in a kind of Rawlsian original position — who do not bring a history of personal interest to their interpretive work, inclining them to want particular cases to be either ambiguous or clear. Where do we find such people and how do we study them? This line of thought might lead us to a remarkable discovery — the judge and jury!

Now, if we like, we can view the judge as a high priest of a capitalist legal order, with the jury under her spell. If this is the case, researchers may do better to bring together their own "people's courts" of lay jurors. Against this, however, is the view that the interpretive work that matters is that which constitutes the content of the law in practical institutional contexts, in the arenas where law is made. Again this leads us to discover the work of judges and juries, as well as legislators, as the more important and revealing interpreters of the law than either offenders or prosecutors or random citizens gathered to participate in a jury experiment.

There is, then, a contradiction in studying the views of those with an interest in problematising the law to study ambiguities of legal definition. Interestingly, when we put offenders in more of an "original position" by asking them about how they interpret the delinquencies of their children rather than their own crimes, the evidence is that they disapprove of delinquency in a similar way to law abiding parents, rather than excuse it as problematic (eg, West, 1982: 49). The data we have points to overwhelming community consensus over the core areas of the criminal law (Rossi et al, 1974; Newman, 1976; Thomas et al, 1976; Wright and Cox, 1967a, 1967b; Sellin and Wolfgang, 1964; Wilson and Brown, 1973; NSW Bureau of Crime Statistics and Research, 1974; Chilton and DeAmicis, 1975; Figlio, 1975; Hamilton and Rytina, 1980; Kutchinsky, 1973; Riedel, 1975; Rose and Prell, 1955; Wellford and Wiatrowski, 1975; Pontell et al, 1983; Kwasniewski, 1984; Rossi et al, 1985; but note the caveats of Miethe, 1982, 1984 and Cullen et al, 1983), a consensus for the most part shared by labelled criminals themselves.

The study of how offenders problematise the criminal law is important for a number of reasons. It helps illuminate how conflict over the content of the law unfolds; it engenders an appreciative stance toward the offender. All I am saying is that we should be wary of the partisanship of taking the offender's perception of the problematic nature of the law as definitive. The most valuable contribution of this style of research is not in the way it can undermine the possibility of explanatory theory, but in the way it can contribute toward it.

Most of us refrain from crime most of the time because to seize the criminal opportunity is unthinkable to us — we would not consider beginning to calculate the costs and benefits of committing murder or rape. Studying the views of criminals on how the law seems so problematic to them is one route to understanding why a particular crime was thinkable to them in a way it is not to others. Far from defeating the mission of explanatory theory building, interpretive sociology should be the most important tool of the theory builder's trade.

Alas, it has not been so used. Interpretive sociology in practice has tended to be obsessed with taking the side of the offender in a way that has contributed to the theoretical nihilism that is the state of criminology today.

We can ponder endlessly how disparate and multifarious are the causal histories of crimes with no face homogeneity; we can pile case upon case of offenders who contest the meaning of crime; valuable as such data are, they should not persuade us one jot that general theories of crime are impossible.

The paradox of the contemporary state of criminology is that we have allowed criminological theory to be paralysed by developments that should have enhanced it — a growing appreciation of how criminals render the criminal law problematic, and of the richness and diversity of the variables involved in causal histories of particular crimes.

After a great post-war blossoming of theoretical criminology — Sutherland and Cressey, Albert Cohen, Cloward and Ohlin, Short, Hirschi, and many others — one would be excused for thinking for the past two decades that the interactionist,

phenomenological, Marxist revolutions had killed positive criminological theory stone dead. Happily, some adventurous spirits are now beginning to poke their heads above the trenches. Wilson and Herrnstein (1985) did so on the right side of the battlefield, and how we all relished finally having a target to shoot at. From the left we had a bold theoretical exposition by Colvin and Pauly (1983). They have not yet had their brains blown out, perhaps only because they do not come from Harvard.

The very fact that some theorists are beginning to scan the horizon rather than dig deeper into their familiar trench is encouraging for the future of criminology. I was also enormously encouraged by the book edited by Bob Meier in 1985 *Theoretical Methods of Criminology*, Charles Tittle's (1985) contribution to that volume is particularly relevant to the position I am developing here on the state of criminology. Tittle diagnoses the criminological malady of killing theories before they are given a chance to grow. Part of the fault lies within the theorists, who, Tittle says, either polemically limit their theory by presenting it as a counter to some mode of thought prevailing at the time the theory was written or present their work as some kind of final answer. Sutherland committed both these sins; he was not content to bill differential association as no more than "an important brick in an emerging edifice of general theory" (Tittle, 1985: 113).

But the greater fault lies with the collective adversarial approach of criminology to theoretical work: "... the social scientific community is more united in trying to prove the impossibility of general theory than it is in trying to construct one" (Tittle, 1985: 116). So theories are viewed as the creations of individuals who tend to defend them against a torrent of destructive criticism; neither the original theorist nor the critics are moved to reconstruct the theory in light of the data and argument generated by the debate.

The malady is of testing the original formulations of criminological theory, concluding they are wrong and leaving it at that. What should we do instead? Tittle suggests that we move away from theories as immutable individual creations and seek to nurture a collective movement to *build* general theory. Under a healthy reciprocation between theory and research our initial interest should not be to show that "A causes B" in the original formulation of a theory is wrong, but to refine it, elaborate it, conditionalise, add specificity to it. If the proposition is plain wrong, we will discover that soon enough.

Unless we turn the culture of criminology around, the disincentives for clear, bold, manipulable formulations that make for testable prediction will continue to keep our heads down protected by atheoretical description which seems unexceptionable to everyone, by abstruse language that obscures tautology, non-prediction, and a failure to enter the symbolic world of offenders, and by methodological virtuosity that obscures the banality of just another kind of atheoretical description.

The present state of criminology is one of abject failure in its own terms. We cannot say anything convincing to the community about the causes of crime; we cannot prescribe policies that will work to reduce crime; we cannot in all honesty say that societies spending more on criminological research get better criminal justice policies than those that spend little or nothing on criminology. Certainly we can say some important things about justice, but philosophers and jurists were making a good fist of those points before ever a criminological research establishment was created.

We can also say some useful things about what does not work. Yet we have lacked the collective guts to undermine our institutional base by saying to policymakers

that they really ought to save the taxpayers' money by spending less on the criminal justice system. At best we recommend occasional minor cuts in spending while acquiescing in the aggregate expansion of the system.

These occasional snippets of useful advice about things that do not work cannot sustain criminology in the long term. If that is all we are to continue doing, if we are no more than professional debunkers and cynics, then 50 years from now there will be far fewer people at this conference. The state can improve the health of people by spending public money on health services, it can improve the housing of people by public spending on housing, and scholars in these areas can say sensible, empirically informed things to governments about how these ends can be achieved. Criminology as a science has failed to put us in a position to do so with respect to protecting the community from crime.

When science fails us so utterly in this way, we must look to its fundamentals — its theory. The policy failure is a failure of explanation; we cannot solve it by retreating from the need to explain. The fruits of the atheoretical policy-oriented criminology of recent decades are not on the tree waiting to be plucked. The quick policy fixes are just not out there waiting to be discovered.

This is not to say that good policy analysis means identifying "the" general theory of crime and applying it to all and sundry policy problems. The reason economists do bad policy analysis so much of the time is because they do just that. No, the mission of criminology as a science should be to build theories of as general a scope as we can manage. Then one would hope that policy makers would work through these theories as alternative frameworks for thinking about particular policy interventions. They might, for example, think dialectically about two general theories that are absolutely contradictory: The oppositions enfolded in the useful application of theory A today alerts the policy analyst to switch intervention to a strategy more informed by theory B as the contradictions inherent in the application of theory A take effect.

What we must do is some fundamental thinking about *Theoretical Methods in Criminology*, abandon the theoretical nihilism that unites us against anyone who scans the horizon beyond their entrenched niches of expertise, nurture bold and general theory, and work cooperatively to build upon it rather than kill it in the womb.

REFERENCES

- Chilton, R and DeAmicis, J (1975) "Overcriminalization and the Measurement of Consensus" 5 *Sociology and Social Research* 318-29.
- Colvin, M and Pauly, J (1983) "A critique of Criminology: Toward an Integrated Structural-Marxist Theory of Delinquency Production" 89 *American Journal of Sociology* 513-51.
- Cullen, F T, Link, B G, Travis, L F and Wozniak, J F (1985) "Consensus on Crime Seriousness: Empirical Reality or Methodological Artifact?" 23 *Criminology* 99-118.
- Figlio, R M (1975) "The Seriousness of Offenses: An Evaluation of Offenders and Non-Offenders" 66 *Journal of Criminal Law and Criminology* 189-200.
- Hamilton, V L and Rytina, S (1980) "Social Consensus on Norms of Justice: Should the Punishment Fit the Crime?" 85 *American Journal of Sociology* 1117-44.
- Kwasniewski, J (1984) *Society and Deviance in Communist Poland: Attitudes Towards Social Control*, trans M Wilson. Leamington Spa, Warwickshire: Berg Publishers.
- Meier, R F (ed) (1985) *Theoretical Methods in Criminology*. Beverly Hills: Sage.
- Miethe, T D (1982) "Public Consensus on Crime Seriousness: Normative Structure or Methodological Artifact?" 20 *Criminology* 515-26.
- (1984) "Types of Consensus in Public Evaluations of Crime: An Illustration of Strategies for Measuring 'Consensus'" 75 *Journal of Criminal Law and Criminology* 459-73.
- Newman, G (1976) *Comparative Deviance: Perception and Law in Six Cultures*. New York: Elsevier.

- New South Wales Bureau of Crime Statistics and Research (1974) *Crime, Correction and the Public*, Statistical Report 17, Sydney.
- Ontell, H N, Keenan, C, Granite, D and Geis, G (1983) "White-Collar Crime Seriousness: Assessments by Police Chiefs and Regulatory Agency Investigators" 3 *American Journal of Police* 1-16.
- Riedel, M (1975) "Perceived Circumstances, Inferences of Intent and Judgments of Offense Seriousness" 66 *Journal of Criminal Law and Criminology* 201-08.
- Rose, A M and Prell, A E (1955) "Does the Punishment Fit the Crime? A Study in Social Validation" 61 *American Journal of Sociology* 247-59.
- Rossi, P H, Simpson, J E and Miller J L (1985) "Beyond Crime Seriousness: Fitting the Punishment to the Crime" 1 *Journal of Quantitative Criminology* 59-90.
- Rossi, P H, Waite, E, Bose, C E and Berk, R E (1974) "The Seriousness of Crimes: Normative Structure and Individual Differences" 39 *American Sociological Review* 224-37.
- Sellin, T and Wolfgang, M (1964) *The Measurement of Delinquency*, New York: Wiley.
- Taylor, L (1972) "The Significance and Interpretation of Replies to Motivational Questions: The Case of Sex Offenders" 6 *Sociology* 23-39.
- Thomas, C W, Cage, R and Foster, S (1976) "Public Opinion on Criminal Law and Legal Sanctions: An Examination of Two Conceptual Models" 67 *Journal of Criminal Law and Criminology* 110-16.
- Tittle, C R (1985) "The Assumption that General Theories are not Possible" in R F Meier (ed) *Theoretical Methods in Criminology*. Beverly Hills: Sage.
- Wellford, C F and Wiatrowski, M D (1975) "On the Measurement of Delinquency" 66 *Journal of Criminal Law and Criminology* 175-88.
- West, D J (1982) *Delinquency: Its Roots, Careers and Prospects*. London: Heinemann.
- Wilson, J Q and Herrnstein, R (1985) *Crime and Human Nature*. New York: Simon and Schuster.
- Wilson, P R and Brown, J W (1973) *Crime and the Community*. Brisbane: University of Queensland Press.
- Wright, D and Cox, E (1967a) "Religious Belief and Co-education in a Sample of 6th Form Boys and Girls" 9 *British Journal of Social and Clinical Psychology* 23-31.
- (1967b) "A Study of the Relationship Between Moral Judgment and Religious Belief in a Sample of English Adolescents" 72 *Journal of Social Psychology* 135-44.