

under heavy attack, with Cesare Lombroso being one of its primary opponents. Lombroso's own theory, first proposed in 1876, soon replaced classical theory as the dominant explanation of crime. Drawing on Darwin's theory of evolution, Lombroso argued that many criminals are "genetic throwbacks," or primitive people in the midst of modern society. Their primitive, savage state is what leads them to engage in crime. Criminals, then, are *not* normal, rational individuals who choose to engage in crime to maximize their pleasure and minimize their pain. Rather, they are fundamentally different than noncriminals, and these differences compel them to engage in crime.

Although Lombroso's theory differs from classical theory in important ways, it too argues that crime is caused by natural forces. Lombroso developed his theory after conducting extensive examinations of criminals and noncriminals. He emphasized that theories must be based on or tested against observations of the world; in fact, he attacked the "armchair theorizing" of classical criminologists. Lombroso is sometimes called the "father" of modern criminology in part because of his emphasis on scientifically testing theories. Brief selections from a book summarizing Lombroso's theory of crime are presented here.

It is important to examine the theories of Beccaria and Lombroso because of their enormous impact on contemporary theories of crime. Many modern theories of crime continue to argue that people are motivated to engage in crime through the pursuit of their self-interests and that what determines whether they engage in crime are the constraints they face, such as the threat of punishment (see the discussions of control theory in Part V and of deterrence, rational choice, and routine activity in Parts X and XI). Other theories of crime draw more heavily on the tradition established by Lombroso, arguing that individuals differ greatly in their motivation for crime, with such differences being determined by forces largely beyond their control, including biological factors and the social environment.

Classical Theory

Classical theory was developed in reaction to the harsh, corrupt, and often arbitrary nature of the legal system in the 1700s. Classical theorists were mainly interested in critiquing this system and offering proposals for its reform, but embedded in their arguments is a theory of criminal behavior.

Laws in the 1700s were frequently vague and open to interpretation. Judges, who held great power, would often interpret these laws to suit their own purposes. Thus, the punishment for a particular crime might vary widely, with some people receiving severe penalties and others not being punished at all. Poor people, who could not afford to bribe the judges, were at a special disadvantage. Further, the punishments for many crimes were quite harsh, often involving torture and death.

Beccaria and other classical theorists thought that this system was both unjust and ineffective at controlling crime. They based their critique on the work of several philosophers, particularly Thomas Hobbes. Hobbes argued that people naturally pursue their own interests and that this pursuit of self-interest frequently leads people to harm one another. People, being rational, agree to give up some of their freedom to the state in order to prevent this harm from occurring. That is, people essentially enter into a social contract with one another, agreeing to accept certain limits on the pursuit of their self-interests so as to prevent a "war of all against all." The state enforces this social contract, establishing laws that place limits on the pursuit of self-interest and punishing people who violate these laws.

Beccaria and other classical theorists applied these ideas to the legal system. Like Hobbes, they assumed that people act in a rational manner, choosing those actions that result in the greatest pleasure and least pain. Given this assumption, how should crime be controlled?

Classical theorists argued that people will be deterred from crime if the pain associated with punishment outweighs the pleasure associated with crime. But if such punishments are to be

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effective, they must be well known, swift, and certain. The system will break down if the laws are unknown or obscure, if punishments are delayed, or if judges apply the laws in an arbitrary or discriminatory manner so that only some offenders are punished. Individuals must believe that if they commit a particular crime, they will quickly suffer the punishment defined in the law. For that reason, Beccaria favored clearly defined laws, public punishments, and the elimination of judicial discretion. In his view, the role of judges should be to determine guilt or innocence, not to decide on the punishment to be administered.

Crime, then, stems from the pursuit of self-interest in the absence of effective punishments. Beccaria did not fully explain why some individuals in a particular society are more likely than others to engage in crime, but he offered certain suggestions. He states, for example, that theft

is commonly the effect of misery and despair; the crime of that unhappy part of mankind, to whom the right of exclusive property . . . has left but a bare existence. (1983 [1775]: 36)

The circumstances of some individuals, then, may lead them to evaluate the potential pains of punishment and pleasures of crime differently than other individuals. Poor people, for example, may be less deterred by the pains of punishment and more attracted by the pleasures of crime. These arguments, however, are only briefly mentioned and do not form a central part of classical theory.

Beccaria's book was quite popular and formed the basis for the legal systems in the United States, France, and other countries. The classical idea that offenders are rational individuals who choose to engage in crime is at the foundation of our legal system. It is the reason that we feel it is proper and just to punish offenders. The idea that the law should be applied equally to everyone (blind justice) also derives from classical theory. In particular, we tend to base punishments on the crimes committed by the offender rather than on the characteristics of the offender. Finally, current proposals to control crime by increasing the

certainty and severity of punishment derive from classical theory. People, being rational, should reduce their criminal behavior in response to increases in the certainty and (perhaps) severity of punishment. Beccaria, however, argues that the certainty of punishment is more important than the severity. He states that overly harsh punishments are unnecessary, are unjust, and frequently backfire. For example, "if punishments are very severe, men are naturally led to the perpetration of other crimes, to avoid the punishment due to the first" (1983 [1775]: 43).

Even though classical theory has had a large effect on our legal system and on contemporary theories of crime, its central assumptions have been challenged. First, classical theory assumes that everyone is motivated to engage in crime through the pursuit of their self-interests. That is, everyone experiences situations where engaging in crime might help them better satisfy their interests, such as monetary interests. While this remains a central assumption of certain control and deterrence theories, most modern theories of crime argue that individuals and groups differ greatly in the motivation for crime (see, e.g., Parts III, IV, and XII of this book).

Second, classical theory assumes that people are rational and engage in crime to minimize their pain and maximize their pleasure. Some criminologists, however, argue that many offenders are not rational and that crime is not in their self-interest. Rather, they engage in crime because of forces beyond their control, and they often suffer greatly because of their behavior (see the critique of deterrence and rational choice theories in Part X). The legal system has partly recognized the validity of this challenge by changing the law so that punishments are based not simply on the offense committed but also to some extent on the characteristics and circumstances of the offender. In particular, certain categories of offenders, such as juveniles and the insane, are treated differently because they are seen as being less rational or having less control over their behavior than other offenders. And judges now have more discretion in

determining the punishments to be administered, so they can take into account those circumstances that influence the commission of crimes (see Bernard et al., 2009, on the "neoclassical" school).

Third, classical theorists state that whether people engage in crime is largely dependent on the swiftness, certainty, and appropriateness of the punishments they face. Almost all criminologists now recognize that other factors have a larger impact on the likelihood of crime than the punishments administered by the legal system. Those other factors are described throughout this text. Nevertheless, classical theory was the first of the modern scientific theories of crime and, as you will see in subsequent sections, many of its ideas live on today.

Lombroso and the "Positive School" of Criminology

Although classical theory was the dominant theory of crime for close to 100 years, it came under heavy attack in the late 1800s. One reason for this was that crime rates appeared to be increasing despite changes in the legal system inspired by classical theory. There was also some evidence that punished offenders were more, rather than less, likely to continue offending (see Bernard et al., 2009). Further, the image of the offender suggested by classical theory—a rational, self-interested person who chooses to engage in crime—was challenged by the biological sciences, particularly the work of Darwin. While several criminologists challenged classical theory during this time, the work of Lombroso attracted the most attention.

Lombroso first presented his theory of crime in 1876. He challenged the idea that criminals are normal, rational people who choose crime in order to maximize their pleasure and minimize their pain. In the initial version of his theory, Lombroso argued that criminals are anything but normal. Rather, they are "genetic throwbacks," primitive people in the midst of modern society, and their primitive or savage state compels them to engage in crime. Lombroso, a physician who

worked in the military and at an asylum, based his theory on extensive examinations of criminals and noncriminals. These examinations led him to develop a list of traits that could be used to determine whether a person is one of these throwbacks or "born criminals." These traits included a large jaw and cheekbones, swollen or protruding lips, an arm span greater than the individual's height, excessive wrinkling, and a prehensile foot. If you imagine what someone with these traits might look like, you will likely think of the stereotypical "caveman." It should be noted that Lombroso increasingly came to recognize that environmental factors also play an important role in the causation of crime, and he later argued that there were several different types of criminals, with the "born criminals" making up about one-third of all criminals (see Baez, 2010; Beccalossi, 2010; DeLisi, 2013; Gibson and Rafter, 2006).

Lombroso's work helped lay the foundation for what is known as the "positive school" of criminology, which now dominates the field. The positive school argues that crime is due to forces beyond the individual's control—biological, psychological, or social forces. The positive school is distinguished by its search for these forces or causes of crime and by its reliance on the "scientific method" in this search. That is, the positive school argues that the theories we develop must be tested against our observations of the world. The positive school is often contrasted with the classical school.

It is said that the classical school argues that individuals *freely choose* to engage in crime, whereas the positive school implies that criminals have no choice in their actions. This difference between the schools, however, has been exaggerated. As Beirne (1991) argues, classical criminologists did *not* place as much emphasis on free choice as is commonly portrayed. In fact, they point to several factors, such as the pursuit of self-interest and the nature of punishments, that strongly influence or determine whether individuals engage in crime. For this reason, Beirne contends that Beccaria's theory might better be viewed as a forerunner of positive criminology. Nevertheless, there is a clear

difference in the theories; although both the causes or determinants of crime, it is on rather different causes.

What does the evidence say about theory? His theory and other early theories were rather simplistic: they point to biological features that were said to distinguish criminals from noncriminals, and these theories were rigorously evaluated in the early to middle 1900s, with respect to the traits of criminals to the matched samples of noncriminals (class, race, and so on to the included). Such comparisons provided the early biological theories. This was with a concern for the policy implications (e.g., selective breeding).

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difference in the theories; although both describe the causes or determinants of crime, they focus on rather different causes.

What does the evidence say about Lombroso's theory? His theory and other early biological theories were rather simplistic: they pointed to gross biological features that were said to distinguish criminals from noncriminals, and they argued that biological factors often lead directly to crime. These theories were rigorously evaluated during the early to middle 1900s, with researchers comparing the traits of criminals to those of carefully matched samples of noncriminals (similar in age, class, race, and so on to the criminals being studied). Such comparisons provided little support for the early biological theories. This finding, along with a concern for the policy implications of these theories (e.g., selective breeding and sterilization,

justification for racist policies), led to the decline of biological theories of crime (for excellent overviews of early biological theories, see Baez, 2010; Beccalossi, 2010; Bernard et al., 2009; Brennan et al., 1995; DeLisi, 2013; Gibson, 2002; Horn, 2003; Rafter, 1997, 2004; Raine, 1993).

There has, however, been a recent resurgence of interest in biological theories of crime. The new biological theories are, of course, much more sophisticated than Lombroso's theory. They consider a range of biological factors, argue that these factors increase the likelihood that individuals will develop traits conducive to crime (biological factors do *not* lead directly to crime), and recognize that the impact of biological factors on crime is influenced by the social environment. These contemporary biological theories are described in Part XII.

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The classical school based its doctrines on the assumption that all criminals, except in a few extreme cases, are endowed with intelligence and feelings like normal individuals, and that they commit misdeeds consciously, being prompted thereto by their unrestrained desire for evil. The offence alone was considered, and on it the whole existing penal system has been founded, the severity of the sentence meted out to the offender being regulated by the gravity of his misdeed.

The Modern, or Positive, School of Penal Jurisprudence, on the contrary, maintains that the anti-social tendencies of criminals are the result of their physical and psychic organisation, which differs essentially from that of normal individuals; and it aims at studying the morphology and various functional phenomena of the criminal with the object of curing, instead of punishing him. . . .

If we examine a number of criminals, we shall find that they exhibit numerous anomalies in the face, skeleton, and various psychic and sensitive functions, so that they strongly resemble

primitive races. It was these anomalies that first drew my father's attention to the close relationship between the criminal and the savage and made him suspect that criminal tendencies are of atavistic origin.

When a young doctor at the Asylum in Pavia, he was requested to make a postmortem examination on a criminal named Vilella, an Italian Jack the Ripper, who by atrocious crimes had spread terror in the Province of Lombardy. . . . "At the sight of that skull," says my father, "I seemed to see all at once, standing out clearly illumined as in a vast plain under a flaming sky, the problem of the nature of the criminal, who reproduces in civilised times characteristics, not only of primitive savages, but of still lower types as far back as the carnivora."

Thus was explained the origin of the enormous jaws, strong canines, prominent zygomae, and strongly developed orbital arches which he had so frequently remarked in criminals, for these peculiarities are common to carnivores and savages, who tear and devour raw flesh. Thus also it was easy to understand why the span of the arms in criminals so often exceeds the height, for this is a characteristic of apes, whose fore-limbs are used in walking and climbing. The other anomalies exhibited by criminals—the scanty beard as opposed to the general hairiness of the body, prehensile foot, diminished number of lines in the palm of the hand, cheek-pouches, enormous development of the middle incisors and frequent absence of the lateral ones, flattened nose and angular or sugar-loaf form of the skull, common to criminals and apes; the excessive size of the orbits, which, combined with hooked nose, so often imparts to criminals the aspect of birds of prey, the projection of the lower part of the face and jaws (prognathism) found in negroes and animals, and supernumerary teeth (amounting in some cases to a double row as in snakes) and cranial bones (epaetal bone as in the Peruvian Indians): all these characteristics pointed to one conclusion, the atavistic origin of the criminal.

who reproduces physical, psychic, and functional qualities of remote ancestors.

Subsequent research on the part of my father and his disciples showed that other factors besides atavism come into play in determining the criminal type. These are: disease and environment. Later on, the study of innumerable offenders led them to the conclusion that all law-breakers cannot be classed in a single species, for their ranks include very diversified types, who differ not only in their bent towards a particular form of crime, but also in the degree of tenacity and intensity displayed by them in their perverse propensities, so that, in

reality, they form a graduated scale leading from the born criminal to the normal individual.

Born criminals form about one third of the mass of offenders, but, though inferior in numbers, they constitute the most important part of the whole criminal army, partly because they are constantly appearing before the public and also because the crimes committed by them are of a peculiarly monstrous character; the other two thirds are composed of criminaloids (minor offenders), occasional and habitual criminals, etc., who do not show such a marked degree of diversity from normal persons. . . .

Discussion Questions

1. The positive school of criminology, which Lombroso helped found, argues that crime is not the result of free will; rather, it is due to factors over which the individual often has little or no control. As such, this school focuses less on the punishment of the offender and more on "curing" the offending. To what extent do you think crime is an act of free will or

one caused by forces beyond the individual's control?

2. What policy recommendations might an adherent of Lombroso's theory make for controlling crime? (A consideration of these recommendations will help you understand one of the reasons why the theory was later attacked.)
3. List those factors said to distinguish "born criminals" from others. How would one go about providing a good test of Lombroso's theory?

The Chicago Disorder

As the United States proceeded into the 20th century, individualistic values enjoyed substantial popularity. Cesare Lombroso's biological theory of crime was widely read and accepted (Levin, 1937). In 1939, Harry E. A. Hooton not only claimed that "the elimination of criminals are organically inferior only by the extirpation of them in a social aseptic environment in a social unfit; or by their and morally unfit; or by their Vold and Bernard, 1986: 6 have been extreme, even for and Montagu, 1940), but in thinking that persists near seeds of crime lie within people to protect public safety is dangerous class (see Herrnstein Cullen et al., 1997, and C

Other social observers of the 19th century, however, criticized theories for their myopia. Sociologists like Lombroso had their attention on discarding their larger foreheads. If criminals, they ignored the reality that were occurring in the United States was rapidly transforming itself from a small, stable farming community dominated by crowd