

## The Main Issue of Criminology: View through the Prism of History

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### ABSTRACT

The urgency of the problem under investigation is reasoned by insufficient study of problems of offenses prevention, the causes of crime in different historical epochs. In this regard, this paper aims to identify the features of the genesis and evolution of the largest areas of criminological concepts: from moral and religious, social and biological beliefs to the level of political positions. The leading methods to the study of this problem is the historical method, which allowed to reveal the historical stages of development of criminological sciences, as well as the modeling method which allowed to consider the problem solving of crime prevention as a purposeful and organized process for improving the professional and general cultural and development of special competencies of criminologists experts needed them to deal effectively with the major causes of crime in modern society. The main results of the paper are: the rationale for considering criminology itself as extremely complex science, engaged in a comprehensive study of the nature of crime, as well as all other phenomena and processes that can facilitate or hinder their fulfillment; justification of criminology as an independent subsystem of the criminal law policy of the modern state. On the basis of research the authors conclude that there is no possibility of domination in the modern society of any one of the main directions in the study of the causes of crime and the need to consider the most criminology as extremely complex science dealing with comprehensive study of the nature of the crime and as well as all other phenomena and processes that can facilitate or hinder their fulfillment. Considering criminology as an important component of the fight against crime, the government has always faced with the problem of self-identification of criminology as a science or as a form of human activity, either as a State policy. This is evidenced a historical analysis of the main stages in the development of criminological views conducted by the authors. Paper Submissions may be useful for further study of issues of crime prevention, the causes of crime, as well as for scientific study of problem of self-identification of criminology as a science or as a form of human activity, either as a State policy.

### KEYWORDS

Offense, crime, criminology, criminological policy

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## Introduction

The paper traces features of genesis and evolution of the largest areas of criminological concepts: from their own moral and religious, social and biological beliefs to the level of political positions. The paper explores the views of famous thinkers of the ancient world, medieval scholasticism, the Renaissance and modern times, the precursors of modern law schools, as well as the characteristics and development trends of the latter.

It is stated that crime prevention problem has been known since the dawn of social development, and was seen as from a religious and a moral and legal positions. In the Middle Ages, in a militant theology, the development of crime prevention issues by the Scholastics was in line with the formulation of the concept of "sin". Although this research direction could hardly match the rationalist principles, however, it has undoubtedly contributed to the doctrine of criminological science (Paz, 1979). This refers especially to the representatives of the late Middle Ages, who managed to overcome dogmatism, seemingly of unshakable theological Criminology. In New times, the development of social sciences received a boost and dramatically changed the vector of criminological research, whereby internal problems and contradictions of the society have been put at the forefront. Later (in the middle of XIX century) the man as being biological, with its internal problems and contradictions was put forward at the fore front. Since then, whatever has been considered as causes of crime - socio-political turmoil or "sunspots", the eternal debate has not been finished: which is more in man-offender - the biological or social?

The very same criminology because of its versatility as a holistic set of research-based and practice-oriented ideas is relatively independent subsystem of the criminal policy of the state.

Since ancient times, the best minds were searching for an answer to the question: what is the root cause of legal deviations and what can be done to avoid them (Lagutkin & Grudtsyna, 2016). The concept of the direct causes of crime vary widely - from internal to external regularities governing the behavior of a particular person, including the "sun spots" (the influence of electromagnetic waves on human health and behavior), and genetic abnormalities. But these views have not been developed in science immediately. And this is no accident, as in the scientific thought only at a certain stage of its development the idea was formed that the main thing in the fight against offenses - is prophylactics and prevention. Famous for all Soviet jurists words: "A wise legislator would do everything to prevent crime than to be forced to punish for it" (Marx, 1955) - have emerged as the result of a long intellectual thought process that began in ancient times and has continued in the current criminology. We can point to major historical landmarks of progress towards the formation of social and preventive approach to the chosen problem.

In ancient India it was considered that as the main prevention tool should serve the fear of punishment. It was argued in the famous dharmashastra - Manu: because of fear of punishment, all living beings serve for the benefits and do not shy away from the execution of the debt: "The penalty keeps the whole world in order, because it is difficult to find a perfect person; out of fear of punishment the whole world fulfills prescribed activities" (Baty & Polikarpova, 1996). A binary system for ensuring compliance with the duty served to it: first, it is the ethical standard that is provided by higher divine powers - Karma, secondly, the political means - danda.

In contrast to the ancient India, where as the only means of combating offenses a punishment was considered in ancient China great importance belonged to the upbringing. Of course, the Legalists school placed heavy emphasis in the fight against

crime on the application of penalties for them methods based on the law still retain an important role. However, the rest of the ancient Chinese thinkers recognized the priority of educational measures. For example, Confucius did not admit violence as a managerial tool for a man of the lower level. According to him, the state control should be ensured by following as *tzyun'-tzy*, so *syao-zhen'* paths of virtue, but not because of the fear of punishment. Violence and Punishment, according to the opinion of the thinker, will only lead to the desire of the people to evade the written laws (far), to the destruction of virtue, that is, the very foundations of the state and society. The legal model of Confucius, which is based on the principle of "*if there is a good will, the person does not violate the law*," etiquette (*li*) clearly dominated the punishment (*sin*) (Bogomolov, 2004). Thus, regulation of political relations by the rules of virtue in the teachings of Confucius sharply is contrasted by Management based on the law: "If to lead the people basing on the laws and maintain order with the help of punishment, people will tend to shy away (from the punishment), and will not feel any shame. If, however, lead the people through virtue and maintain order with the help of the ritual, the people will know the shame and will be corrected" (Nersesyants, 2000 *Syun' Tzy*, a follower of Confucius, was sure that if you do not educate people, and punish, there will be a lot of punishments, and defect will not be eradicated; if only to educate, but do not punish evil go unpunished).

In the ancient world, based on the rule of law-abiding ideas the problems preventing offenses were more deeply affected by. In support of this thesis it is sufficient to mention aphorism belonging to the ancient Greek thinker Periander (end of the VII<sup>th</sup> - beginning of the VI<sup>th</sup> centuries BC.): "Don't be satisfied with the punishment of the criminal, but try to prevent crimes. But the ancient Greeks and Romans did not oppose the methods of coercion and persuasion, the emphasis was done on their organic relationship. Important ideas belonged to sophist Protagoras that who transgresses the laws the State punishes, but the name of this punishment is correction, because the retribution corrects. The call of Roman lawyer Ulpian is known that it is important for kind persons to be improved not only by fear of punishment, but also by encouraging awards (Baty & Polikarpova, 1996). Ancient scholars have advanced in the comprehension of the social causes that lead to the commission of offenses. Among the common causes of misconduct ancient thinkers pointed to such as drinking. In accordance with this Pittacus considered that it was correct to double penalties for a misdemeanor made by a drunkard. And when asked how to avoid becoming a drunkard, Anarharsis stated: "Having drunkard before the eyes with all its ugliness" (Diogenes Laertius, 1979).

In the ancient world crime prevention problem was posed and resolved not only with religious positions. Great importance was attached to the moral and legal aspects. The domination of medieval scholasticism facilitated the continuation of theological trends in the study of the problem. Being veiled in religious shell the prevention topics could not develop on the basis of the rationalist, all was explained by the sinful nature of man and the machinations of Satan that can hardly be considered a contribution to the criminological science. So, State as the system of ruling of one over the other was considered by Avgustin Blazhenny and as punishment for Adam's original sin and as means to prevent people to do new sins (Leyst, 2000).

### **Methodological Framework**

The starting point in the national criminology was a provision stating that the crime is the one of social deviance in society. It is not the norm, but at the same time it is a natural phenomenon in certain social conditions. Therefore the fight against crime is necessary which is associated with changes in these conditions and in any case which



is not limited only to the use of criminal penalties to specific offenders (Dolgova, 1997). Therefore, the question of the nature of the offenses and their cause has, in addition to the theoretical and purely practical importance, because identify ways and means to combat unlawful conduct. "If the critical role belongs to social factors, then, obviously, and this struggle must have primarily social orientation ... If it's all about human biology, it is necessary to devise methods of medical influence on criminals using genetic control" (Dubinin, Karpets & Kudryavtsev, 1982).

From the standpoint of modern approaches prevailing among members of the legal science, the starting position is to consider the offense as a social and biological phenomenon (Babayev, 1993). This means that the infringing behavior is caused by factors such as biological and social features. The leading role in this case belongs to the social environment, as the personality is formed in the community and because of that gets most of its social and psychological attitudes that motivate it to action in public life (Antonyan, 2015). But it is hardly justifiable to ignore the biological nature of man, as in this case there is a separation of the offender from its unlawful conduct, there is no study of the socio-psychological characteristics of his personality, and most importantly - research and development with respect to the causes of crime are transformed into formal scheme, reminiscent of medieval scholasticism. In such circumstances a view through the prism of history is capable of supporting way out of the existing methodological impasse. O. Paz (1979) is the author of famous words: "Every time when society is in crisis, it instinctively pays attention to the roots and looks for a sign there».

Historically, it is easy to notice that the items of concepts raised in the paper somehow were met in the old days. However, the development of technical progress and the increasing complexity of social life connected with the social and political transformations, the further stratification of society objectively require rethinking and reassessment of seemingly, long-known truths. Until now, there is debate whether criminology is a social or legal science (Delay & Deniker, 1961). Analyzing the common picture, Y.M. Antonyan (2015) concludes that, studying sociology, psychology, economics, pedagogy, psychiatry, the demographics of crime, criminology is a complex science, "which is making full use of their own capabilities and resources, along with it, enjoys the achievements of sociology, psychology, economics, and so on ", the subject of which is the crime and criminological sphere of interests - all phenomena that may promote or hinder their fulfillment". The very same criminology because of its comprehensiveness as a complete set of evidence-based and practice-oriented ideas is transformed into a relatively independent subsystem of the criminal policy of the state (Babayev, 2008).

## Results

Supporters of the sociological trend did not imagine another system of justice, except of one which is based on the idea of congruity of appointed measures to person of the criminal (Grudtsyna, 2016). It is significant that these scientific views were taken by the legislator, as they were enshrined in existing legislation of pre-revolutionary Russia. They fixed a need in sentencing within the gravity imposed on the perpetrators of coercive measures to take into account the nature and severity of the acts committed, the offenders' personal features and the circumstances, though beyond the scope of the offense, but influencing on mitigation or on increased responsibility (Ivanov, 2009).

As a result, it can be stated that before the October Revolution in Russia social and preventive approach legally was formed and strengthened based on the idea of the existence of offenses' objective reasons. However, it was supplemented by the provisions on the need to consider the peculiarities of the offender. Under this

approach, prevention activities must consist of two stages: 1) identification and study of the causes and conditions contributing to the commission of offenses, as well as the identity of the offender; 2) development and implementation of appropriate preventive measures (Shagieva, 1989).

In the second half of the XIX century into the struggle of classical and sociological trends the anthropological doctrine of Cesare Lombroso literally broke into ("Criminal man studied on the basis of anthropology, forensic medicine and prison study", 1876) (Nazarenko, 2001). This Italian researcher so carried away by the development of his theory of "born criminals", that as a result biological causes of crime were turned by him into a self-sufficient value and one time in the search for explanations of "innate killers" even he tried to lay the foundations of the study of crime insects, animals and plants (Poletti, 1878). The doctrine of Lombroso, albeit in its most odious aspects soon was mercilessly criticized by criminologists (Èminov, 2009; Zernov, 1906), did not sunk into oblivion, and set a new thorny issue before science: is the offense social or biological phenomenon? After the defeat of the theory of Lombroso pure science studied relationships of social and anthropological roots of crime.

On this basis, rapidly began to emerge various biosocial theories of the causes of crime (Ivanov & Ivanov, 2006). And this debate has been going on for over a century, within the increasingly popular in Anglo-Saxon jurisprudence the so-called critical criminology.

As a biological phenomenon, subjected only to the psychological and physiological laws, crime is considered within the anthropological school of criminal law and criminology. The doctrine of the social nature of crime emerges as an alternative to the anthropological school. As representatives of this theory consider, the roots of crime as a purely social phenomenon must be sought not in the nature of man, but in the economic, political and other social conditions of life activity of the individual (Delay & Deniker, 1961).

Academician V.N. Kudryavtsev (1998) argued that crime is a social phenomenon, and, at least in three ways: by legal definition, historical origin and in its results. Firstly, it is society represented by legislators separates criminal from non-criminal. Second, the historical origin of crime confirms its social nature. It is known that the actions, threatening the foundations of any society, took place in ancient times. But the legal characteristic of these actions is the formal recognition of the crime that could not appear earlier than any state, even, that such actions always take place, until the human society exists. Third, the social nature of crime evidently manifests itself and in the consequences that occur as a result of the commission of crimes in any society.

The recognition of the social nature of the crime does not mean denial of the impact of these natural phenomena, as well as technical factors: the geographical environment, the biological components of human behavior, man-made and natural disasters, and so on. For example, in the nineteenth century, a Belgian researcher A.J. Queteler (1835) revealed patterns of fertility, mortality and crime. However, if we speak about the essence of a phenomenon or process, we should establish something main and largely defined. And for the crime it is its social nature (Kudryavtsev, 1998).

## Discussions

Since the beginning of the Renaissance it became possible to continue the development of genuinely scientific views to crime prevention issues. In a series of brilliant minds of that time the humanist, politician and writer Thomas More (1478-1535) is not the last. In assessing the situation of his days, associated with the process of the emergence of capitalism and replace tillage by sheep breeding, Moore connected



the "ring-fencing of land" in England and mass vagrancy, leading to an increase in crime. The main outcome of his thoughts was the thesis of the social conditioning of crime, according to which certain crimes may be destined not so much because of the individual characteristics of the person, but because of unjust structure of society (Gilinskiy, 2012; Gurinskaya, 2010; Kleimenov, 2011; Gresham, 1974). Claiming that no punishment is "strong enough to deter robberies who have no other way to find their own food," he believed that the supply of all the citizens with elementary means of existence would have saved the state from property crime. Describing the social causes of crime, drunkenness, poverty, he wrote: "Curb ... rich buying and tyranny similar to monopoly. Less feed loafers! ... I ask, whether you do anything else, except that create thieves and punish them yourself?" The fruits of scientific thought of the author of the world famous "Utopia" sounds true and now, "to sentence to death for a simple theft - excessive punishment"; "it is not honestly for the money taken away to take away from a person's life. For nothing of what is in the world, cannot be compared with human life" (Leist, 2000).

Thus, considering the private property as the main root of social injustice and crime, thinker begins to overcome the medieval theological criminology, in which crime is viewed as a manifestation of sin and the devil in man. He made the transition to a rational criminology, seeing the foundation of crime in the socio-economic conditions of the criminal life. Lack of livelihood at the bottom forcing them to go to the crime to escape from starvation. Accordingly Mor believed that it is not necessary to treat the effect but the reason, i.e. replace private property as the basis of social inequality of public property, to provide all people with work, giving the necessary means of subsistence. In such a society the purpose of punishment will be not destroying but correction of the offender (Bogomolov, 2004).

During the Enlightenment, the development of social and preventive attitudes was continued in the works of Sh.L. Montesquieu (1689-1755), who in his book "On the Spirit of Laws," argues that the system of penalties based on the senseless brutality, does not result to fear, but to savagery of society. Accordingly, he called for proportionality between crime and punishment, to the priority of various educational measures for the prevention of crimes, and not just to the use of coercion.

But the publication of the book "On Crimes and Punishments" (1764) contributed to the emergence of modern legal science - criminology, as its author - C. Beccaria (1738-1794) was able to identify the main direction of its research - research into the causes of crime. Italian thinker ably expressed humanistic views of the Enlightenment to the modern criminal justice system, exposing sharp criticism feudal inquisitorial process and especially torture as an integral part of the latter. One of the first in Europe, advocating the abolition of the death penalty and the other cruelest punishment, C. Beccaria (2004) also formulated an important requirement that the laws were understandable by all and served as a warning to potential criminals (Beccaria, 2004).

The work "On Crimes and Punishments" significantly influenced on the public and public figures of the time, actually led to the first liberal reforms of justice and criminal law in the enlightened monarchies of Austria, Prussia, Sweden, Tuscany (abolition of torture, the reduction of the death penalty, the assertion of the principle of legality). It is sufficient to point out that in 1786 the Grand Duke of Tuscany Leopoldo published the first modern criminal code, where for the first time death penalty was completely abolished in Europe.

Catherine II did not escape the influence of progressive ideas of C. Beccaria (2004), inviting their author to come to Russia to participate in the drafting of a new Code of laws. However, the trip did not take place, though in itself this fact is significant. In

general we can say that for more than 200 years, this classic treatise is not outdated, continues to encourage the reader to reflect on the crime and punishment, as evidenced by the fact of its reissue in our country and abroad. As a valuable publication on the history of socio-political and legal thought, it remains alive call for the implementation of the humane and fair criminal policy. For example, Michel Foucault spoke in his book "Supervision and Punishment" (1975) about the humanistic ideals of C. Beccaria. Some authors and in modern conditions find in the fundamental legal ideas answers to today's challenges.

Going back to the eighteenth century, it is necessary to point out that it was then finally the position formed according to which attacks on property caused by poverty of life, illiteracy among the poorest of the poor, as well as - the result of tyrannical rule. It is sufficient carefully to examine the works of Bentham, Godwin, Voltaire, Mably, Morelly. In particular, the arguments of Voltaire, like his contemporary C. Bekarria (2004), had an impact on public opinion and contributed to the modernization of the European criminal justice system. Tiran to Voltaire - a "ruler, who does not recognize the other laws except its whims, appropriating the property of his subjects, and then recruiting them into the army, to take property of their neighbors" (Leist, 2000). In tune with these ideas the words of the first theorist of communism (by Engels) Morelli: "Eliminate the property, I do not cease to repeat, and you destroy a thousand accidents all that put the man to desperate extremes (Babayev, 1993). It is absolutely impossible to prevent ... getting rid of this tyrant, the people resorted to crime, that he was a thief, a murderer, a conqueror "(Leist, 2000).

Do not stay aside from the development of social and preventive approach Russian revolutionary democrats who supported the European humanistic ideas in regard to understanding the causes of crime and ways to combat them. For example, A.N. Radishchev (1952) writes that there is no need "always keep the sword raised for the execution of criminal acts, it is necessary to convert mostly acts in a way to make them innocent and not allowing them to be reborn".

## Conclusion

Noting the contribution of the representatives of the classical school of criminal law in the development of specific offenses, along with the general issues of punishment one cannot overlook isolation of their research from the practical problems of the fight against crime. This allowed the representatives of the new sociological trend in the mid-nineteenth century to proceed to active criticizing of old classical criminological dogma: "For criminologists, judges and legislators justice area contains three points: the crime, the court and the punishment. Classical school does not know the perpetrator, which is the beginning and at the same time the ultimate goal of social defense activities against the Crime "(Ferry, 1908). Dutch criminologist Van Hamel formulated extremely highly concentrated sociological problem areas: "Instead of theoretical criminal law, we have to create a practical criminal law. Three concepts scary disturb us in it. Namely, "responsibility", "punishment" and "crime" (Stankevich, 1914).

Guided by these objectives, the innovators in the field of criminological research criticized the abstract principles of the classical school, pointed to oblivion in it of the study of the purposes of punishment, and noted that the objective of liability is determined by the punishment and not the punishment by the purpose (Poznyshev, 1904). Nothing was left without a critical eye and that behind the "objective gravity" of a crime it did not notice the individual of the offender and the offense itself is considered as a result solely of human free will. Hence, summarized the "sociologists", there is a belief in the salutary effects of punishment, "its complete selflessness" and in



most cases - not fighting against crime, but the "destruction of the guilty" (Stankevich, 1914).

## Recommendations

### *Dogmatic and sociological research schools*

The validity and fairness of the criticisms made in this paper were predetermined by analyzed historical conditions in Russia after 1864, when a huge number of former serfs filled the city, and then - unfortunately, prisons, making this criticism very topical because the dogmatic school was extremely conservative and progressive innovations which were made by it were most likely superficial because too strong were the secular traditions (Dubinin Karpets & Kudryavtsev, 1982). "But, - supporters of sociological trend pointed - modern crime in contrast to the crime of centuries old is characterized not so much as anti-state, but as anti-social phenomenon" (Lublinsky, 1914). Based on this postulate, the proponents of sociological trends considered the detection of social roots of crime as a natural phenomenon. In this case, it becomes possible to determine the purposes for achievement of which both legal and social institutions should be mobilized. This is not a "punishment" but "looking for measures that can correct". Only then it is real to create a system to adapt to a normal and a fair life of a criminal under the existing social conditions (Stankevich, 1914).

Law enforcer should be guided by objective characteristics and the severity of the acts committed, since he is related to formal conditions. But at the same time he should to explore the identity of the perpetrator, to take into account all the circumstances of his life, features, and to discover the circumstances that led him to commit a crime (Gresham, 1974). Only after that, the judge must determine the most appropriate actions in this case from the respective system established by the legislator. It is in this direction reasoned I.J. Foinitsky (2000), one of the earliest supporters of the sociological trends in Russia: "Any punishment should be fair, being applied only to the guilty, and corresponding as to objective severity of attacks, and so to subjective guilt".

### *Philosophical and social sources of scientific thought on the identification of the causes of crime and ways to deal with them*

Based on the study of the cited ideas of progressive thinkers, made up before the nineteenth century, it should be stated that all of these and some other very interesting assumptions about the causes of crime and combating them could hardly be fully realized in the existing socio-economic and political conditions of the time (Markuntsov, 2011). These provisions have become the basis for the classic areas of criminological sciences. The center of gravity of criminal repression was put at the mercy of the public danger of the action, but with unfailing adherence in the process of determining of its grounds within the complex of fundamental principles: there is no crime and punishment without specifying that in the law, subjective imputation, proportionality of punishment with the crime severity, the court and penalties' equality for all, the presumption of innocence, etc..

It is not a coincidence when one of the authors previously wrote that the classical school of criminal law, came out of the womb of feudalism, and experienced the effects of the principles of bourgeois law, developed the idea of the necessity of the punishment's compliance with the seriousness of the crime, justified the questions of guilt and complicity, the circumstances " increasing or decrease the guilt of the figure ", and many more (Ivanov, 2015). As it is noted by L.E. Vladimirov (1908), the classical school as a whole has performed its tasks "to establish individual formulations of crimes, to carry out with precision the border of what is permitted and forbidden; to



give a solid ground for the application of the law in court for sentencing a person, according to his guilt, expressed in conducted action which has the described signs in the law".

Among the most important its ideas are: the person is a carrier of free will, and the crime is the result of his arbitrary choice, so if the person possessing the moral freedom, elects evil, he must be punished for his choice; decision-making process of committing a crime has purely rational nature; strengthening the punishment society makes crime less attractive, that allows to keep people from acting; the art of the legislator and his humanism lies in the fact that the penalties tougher was conducted not on the principle of "the more, the better", but on the principle of "tighten just enough to make crime unappealing", etc. (Inshakov, 1997).

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No potential conflict of interest was reported by the authors.

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