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THE BIRTH OF CRIMINOLOGY

Readings from the Eighteenth and
Nineteenth Centuries



BRUCE DiCRISTINA



Wolters Kluwer
Law & Business



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Readings from the Eighteenth
and Nineteenth Centuries

Edited by

BRUCE DICRISTINA

University of North Dakota



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Law & Business

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PREFACE

Several anthologies covering the principal works of criminology have been published, but most of them devote relatively little attention to the writings of the eighteenth and nineteenth centuries. This reader, *The Birth of Criminology*, has been designed to help fill this gap in the literature and to encourage criminologists to maintain an awareness of the history of their field. It provides researchers, instructors, and students of criminology with a collection of key readings from these formative years. It includes selections from the classical school, physiognomy and phrenology, the Italian school of positive criminology, moral statistics, the nineteenth-century French school, and several works that anticipated the emergence of critical criminology. Many of the perspectives embodied in these readings have endured while others have faded into obscurity, but all of them represent significant viewpoints in the history of criminological thought.

The Birth of Criminology differs from the few existing readers in the field that focus on works written before the twentieth century in at least three notable ways. First, it devotes considerable attention to the classical school of criminology. Not only does it provide lengthy selections from the works of Cesare Beccaria and Jeremy Bentham, but it also presents readings by two prominent forerunners of the classical school, Francis Hutcheson and Montesquieu. Second, it devotes an entire section to critical thought on law, crime, and punishment—that is, to several important precursors of contemporary critical criminology. The works of the early Marxists (including Karl Marx), anarchists, feminists, and critical race theorists (e.g., W. E. B. Du Bois) provide important insights into the overall range of perspectives that addressed issues of criminological interest prior to the twentieth century. Although these perspectives were not mainstream at the time and may not be today, they do occupy a significant place in the history of criminological thought. Finally, the selections presented in this reader generally are longer than those provided by other readers that present works written before the twentieth century. A decision was made to sacrifice some breadth of coverage for a little more depth. Space limitations, unfortunately, require something to give in one area or the other.

Before proceeding, a brief comment on the publication dates of the selected readings may be warranted. There is a slight discrepancy concerning the subtitle of this book, since a few of the selected readings were published in the early twentieth century. However, these early-twentieth-century readings were either later editions of works originally published in the 1800s or, in one case (a 1901 lecture by Enrico Ferri), a concise and very informative presentation of a perspective developed during the 1800s.

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Finally, I would like to thank the publishers of the following works for permission to include selections from these publications. Complete citations are presented in the chapter introductions.

André-Michel Guerry. Extracts from *Essay on the Moral Statistics of France*; edited and translated by Hugh P. Whitt and Victor W. Reinking; Lewiston, NY: The Edwin Mellen Press. Copyright © 2002. Reprinted by permission of publisher.

Émile Durkheim. Extracts from "Two Laws of Penal Evolution"; translated by William Jeffrey, Jr.; *University of Cincinnati Law Review*, Volume 38. Copyright © 1969. Reprinted by permission of publisher.

THE BIRTH OF CRIMINOLOGY

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THE BIRTH OF CRIMINOLOGY

The progress of science is often portrayed as a majestic and inevitable evolution of ideas in a logical sequence of successively closer approximations to the truth. . . . (T)his conception does not apply to criminology wherein myth and fashion and social conditions have often exercised an influence quite unrelated to the soundness of theories or to the implications of accumulated evidence. One of the sources of protection against invasion by fads, and against these extra theoretical influences . . . is sound appreciation of its own past. (Lindesmith and Levin 1937:671)

Criminology was established as a distinct multidisciplinary field of inquiry by the late nineteenth century, but the development of its foundation goes back much further. Indeed, if one views crime as a secular political label that has been attached to historically sinful behavior, theories of crime have existed for thousands of years in that spiritual explanations of sin can be found among some of the early religious texts. Nevertheless, it was during the eighteenth and nineteenth centuries that the foundation was set for the birth of criminology as a distinct field of inquiry in Western nations.¹

Historical Context

The foundation for criminology in Europe and North America was forged during a period of rapid and dramatic social change. Over the course of the eighteenth and nineteenth centuries, several phenomena interacted to initiate a change in social life that arguably is greater than the changes that had occurred over the previous five millennia. This transformation created conditions under which the development of criminology and other social sciences seemed reasonable and perhaps even necessary. Below I have provided a brief sketch of several elements of this transformation and how they encouraged and shaped the emergence of criminology.

1. The scope of this reader is limited to the early history of criminology in Europe and North America. Accordingly, the development of criminological theory and research in Asia and other parts of the world will not be examined.

During the eighteenth and nineteenth centuries, a fundamental shift occurred in intellectual life. This era began with the Enlightenment, and it was marked by a growing emphasis on “reason” and empirical inquiry. Otherworldly theological perspectives were challenged and gradually replaced by this-worldly philosophical and scientific viewpoints. To borrow the language of Auguste Comte ([1830–1842] 1893), the theological mode of thinking gave way to metaphysical thought and, eventually, to positivism. The leading intellectuals became more secular in their reasoning, pushing religious doctrine and arguments emphasizing the influence of supernatural entities further and further into the background. In the legal realm this shift entailed a call for a new and predominantly secular understanding of law, crime, and punishment. The concept of crime was increasingly separated from that of sin, and it became less acceptable to offer spiritual explanations of criminal behavior and to rationalize punishments in terms of such explanations. The criminal was no longer a possessed person, or someone who was unable to resist the promptings of the “Tempter”; she or he was not an individual with an evil or otherwise defective spirit, or someone who simply was not among the “chosen people.” Likewise, it became increasingly unreasonable to view punishment as a means to appease a supernatural force, or to destroy or expel an evil spirit, or to purge an individual’s soul of the sin that taints it. Rather, secular conceptions of crime, secular explanations of criminal behavior, and secular rationale for penal policy increasingly became representative of the “rational” viewpoint. But, of course, this new understanding of law, crime, and punishment had to be developed by someone or some group; thus an intellectual void was created, one that could be filled by the field of criminology.

This fundamental shift in intellectual life was closely associated with a fundamental change in political structures and ideologies. During the late 1700s, striking transformations began to occur in the governments of Western societies. These changes are perhaps best exemplified by the American Revolution and, more importantly, the French Revolution. More than any other political revolution of this period, the French Revolution symbolized the fall of hereditary monarchies and the rise of modern democracies (republics). The ideals of this revolution—liberty, equality, and fraternity—reflected the aforementioned shift in intellectual life and were central to the broader cultural change that was occurring in the West. Of course, these transformations in governmental structure and political ideology also affected the content of law and formal responses to criminal behavior. Many of the laws and systems of stratification under the monarchy stood in opposition to the new political system and, accordingly, had to be replaced. This added momentum to the existing scholarly efforts to develop rational systems of law, a rational conception of crime and criminals, and rational responses to crime. It represented another implicit call for a field such as criminology.

The political context for the birth of criminology also includes at least two other important phenomena: the emergence of nation-states and the practice of colonialism by Western societies.² Around the time of the Enlightenment,

2. These were not exclusively political phenomena; for instance, they also were tied to the expansion of particular economic interests.

the traditional state that had characterized the political system of many European societies was in the process of being replaced by the nation-state.³ Compared to the traditional state, the territory of a modern nation-state has boundaries that are more precisely defined, its central government exercises greater control over the people within its borders, and its citizens generally embrace a distinct national identity (nationalism) (Giddens 1991). Each of these properties has implications for matters of crime and justice, but one seems especially relevant to the emergence of criminology. The expansion of centralized governmental control that is characteristic of nation-states prompted more attention to questions of when and how to exercise that control, questions that have concerned the field of criminology from the beginning.

Regarding Western colonialism, it began in around the sixteenth century and involved the expansion of political domination by Europeans to territories outside of Europe. As an extension of the Age of Exploration, colonialism increased the exposure of Europeans to alternative societies—people who looked different and who had different languages, values, rules, and systems of justice. From a European standpoint, these people usually were regarded as inferior, and by extension their ways of life were viewed as inferior. This general mindset is expressed in some of the descriptions of criminals provided by eighteenth- and nineteenth-century scholars. The physical appearance and psychological dispositions of European criminals, at times, were compared to the actual or presumed characteristics of various non-European populations; the purpose of such comparisons was to make criminals appear inferior to the average European. This way of thinking can be found in many early works of criminology.⁴

The changes in intellectual and political life during the eighteenth and nineteenth centuries were certainly important, but there was another change that was perhaps even more important—the transformation of economic life. This transformation is associated with the development of colonialism, but it is best represented by the Industrial Revolution and the rise of modern capitalism. During this era, agrarian economies gave way to factory-based systems of production. The new system of production, combined with the growth of science, contributed to significant advances in technology. Material goods suddenly were produced with much greater efficiency and in much larger quantities, and the variety of goods manufactured increased at a remarkable rate. This transformation also depended on and contributed to rapid expansion in the division of labor. Many new specializations emerged throughout the economic system, and individuals became more focused in their economic roles. In short, due to this economic transformation, the material conditions of social life and the roles people played within their communities changed dramatically.

3. Anthony Giddens (1987:154–155), citing the work of Charles Tilly (1975), notes: “In the sixteenth century, there were some 500 more or less autonomous states and principalities in Europe; by the turn of the twentieth century these had shrunk to twenty-five.”

4. Colonialism also allowed for another penal option: the transportation of offenders to the colonies.

However, the emergence of industrial capitalism also contributed to a new set of problems, including a new form of class struggle, rapid population growth and urbanization, and complications associated with managing a highly differentiated society. Class conflicts existed before the emergence of industrial capitalism and they persisted after its establishment. They continued in a new form as tensions arose between wage laborers and the owners of the new industries. The competitive, profit-oriented nature of capitalism created a continual pressure to keep wages low, workdays long, and working conditions barely tolerable. The suffering of workers under the early stages of industrial capitalism, especially when there was a large surplus labor force, was very apparent. To make matters more complicated for the working class, during the eighteenth and nineteenth centuries, there was a population explosion and the number and size of cities increased at an incredible rate. Unfortunately, the infrastructure of these cities did not keep pace with their growth and, consequently, many people lacked food, clothing, shelter, sanitary living conditions, and health care. Finally, given the growing concern with efficiency, the need to manage an ever-increasing population, and the need to effectively organize interactions among a large number of occupational specializations, governments, industries, and other social institutions (e.g., schools) increasingly came to embrace bureaucratic principles and various practices that would promote a more disciplined population.

These socioeconomic problems locked a segment of the population into a state of desperation and raised persistent concerns regarding the development of effective means of social control. On their own, these problems may have been enough to stimulate the emergence of criminology. Many of the scholars who were responsible for the development of criminology were concerned with these issues. Some of them proposed policies to control dangerous subpopulations; others described how the laws unjustly support the interests of some segments of society over the interests of other segments. And while some of these scholars looked for the causes of crime within individuals, others were more inclined to examine the effects of the social environment on criminality.

In simple terms, the changes in social life that were occurring during the eighteenth and nineteenth centuries, and the fear and uncertainty they created, prompted people to take a closer look at the nature of social life in general and the nature of law, crime, and punishment in particular. This was an environment in which various spheres of systematic social inquiry could emerge and prosper. The creation, or at least the further development, of political science, economics, psychology, sociology, anthropology, criminology, and perhaps most other social sciences was easily rationalized in this context. While the official objectives of these disciplines often may differ significantly from their latent functions, their very presence is easy to understand. The changes taking place were so striking that people were encouraged to ask a series of related questions: Why were these changes occurring? Where were they taking us? And how can we alter the course of these changes for the benefit of society, or at least some segment of society? Criminology offered answers to some of these questions, those pertaining to changes in the nature of law, crime, and punishment.

The Subject Matter of Criminology

Criminology has been defined in different ways. Occasionally an author will limit the overall scope of criminology to the study of crime and criminals, especially the causes of crime. Such a conception may be useful for purposes of setting up disciplinary boundaries (e.g., separating criminology from criminal justice), but it tends to overlook or dismiss two very noteworthy descriptions of the field. In 1885, Raffaele Garofalo published the first edition of his *Criminology* (*Criminologia*), one of the first books to apply the label of “criminology” to the field. This book, at least by the time of the French edition of 1905, provided analyses of the “notion of crime,” of the characteristics of criminals and the causes of criminality, and of the existing theories of law and criminal procedure. It also presented suggestions for a “rational system of punishment” and an “international penal code.” As conceived by Garofalo ([1914] 1968), criminology is concerned with not only the study of crime and criminals but also issues of law and punishment. This broader conception was later embraced in a more sociological form by Edwin Sutherland, who, in the fourth edition of his *Principles of Criminology* (1947), provided perhaps the most influential definition of the field:

Criminology is the body of knowledge regarding crime as a social phenomenon. It includes within its scope the processes of making laws, of breaking laws, and of reacting toward the breaking of laws. (Sutherland 1947:1)

It is this broader conception of criminology that has guided the selections presented in this book. Thus the readings will cover not only analyses of the causes of crime but also important issues related to legal theory and penology, issues that were a central concern for early criminologists and are still a concern for criminologists today. As Sutherland suggests, there is a kind of unity that exists across the three “principal divisions” of criminology, and this is a position that was embraced to some extent by scholars of very diverse orientations long before Sutherland. It is suggested by the work of not only Garofalo but also Cesare Beccaria, Jeremy Bentham, and Émile Durkheim. It even is implied in the works of several critical theorists of the nineteenth century, including Frederick Engels and Peter Kropotkin. Because of this common tendency to examine laws, criminal behavior, and responses to crime together, I will not attempt to draw a rigid distinction between the fields of criminology and criminal justice.⁵

Historical Trajectories in Criminological Thought

From its early stages of development until today, criminology has been a multidisciplinary field that embodies many different theoretical and research perspectives. Regarding the founding perspectives of the field, they have been classified in different ways (see Horton 2000; Rafter 2009), and currently

5. One distinction that appears to exist between criminology and criminal justice is that the latter is more concerned with administrative issues regarding the day-to-day operations of the police, courts, prisons, and other components of the criminal justice system. This difference may help separate the two fields, but criminology still has much to say about the assumptions and knowledge claims that rationalize these operations.