

SOC 3290 Deviance

Overheads Lecture 5: The Classical Perspective

* Differing views on punishment/deterrence reflect the *classical perspective*:

- deviance=rationally calculated choice
- cost-benefit analysis: maximize pleasure/minimize pain

(1) Theoretical Images:

- * Radical departure from Demonic perspective
- * First appears in work of Cesare Beccaria and Jeremy Bentham (1700's)
- * Context of these emerging ideas:

- Population changes (size, density, heterogeneity)
- Economic changes (increasing individualization)
- Political changes: the Nation state (feudal breakdown)
- Religious changes: (Reformation & the “Protestant Ethic”)
- Intellectual influences: Scholasticism & the Enlightenment

Cesare Beccaria & Jeremy Bentham

- * Beccaria wrote Essay on Crimes and Punishments (1764)
- * Appealed to both conservatives/radicals:
 - both wanted centralized state
 - both opposed to archaic, harsh demonic social control

* Beccaria's 6 principles:

- (1) The necessity of rational punishment for preserving social contract
- (2) Legislative determination of law; Judicial determination of guilt
- (3) The hedonistic psychology of deviance (pleasure vs. pain)
- (4) Social control as rationally calculated punishment
- (5) Deterrence as the object of social control
- (6) Control of acts, not actors

* Jeremy Bentham (1789):

- laid out parallel scheme for rational legal reform in UK
- formulated "mathematics of rational punishment"
- common good=greatest pleasure for greatest number

(2) Identifying Classical Deviance:

- * Little interest in the study of deviant behavior/actors
- * Deviance results from inadequate/irrational laws/social controls
- * Legislative determination of deviance: Beccaria (silent); Bentham (utilitarian calculus + "demonstrable social harm")

(3) Classical Social Control:

- * Three changes resulted: (1) French Penal Code (1791)
 - (2) Neoclassical modifications
 - (3) Centralized control in state institutions

* French Penal Code:

- followed Beccaria's ideas (legislated punishments/no discretion)
- legalistic but administratively simple
- criticized as unfair (e.g. extenuating circumstances)

* Neoclassical modifications:

- Initial limited return of discretion to judges (1810)
- Later incorporation of:
 - (1) Premeditation
 - (2) Extenuating circumstances
 - (3) Insanity defense

* Centralized control/state institutions:

- Idea was that imprisonment would rationally "correct" behavior
- Theorists' array of penalties largely gave way to imprisonment
- Bentham's "Panopticon"
- Surveillance/manipulation fit capitalist system/state
- Contained seeds of later "pathological" perspective

(4) The Classical Perspective Today:

* While seemingly outdated, classical theorizing reviving

* Marvin Wolfgang's work:

- most offenders stop after 1-2 offences regardless/treat leniently
- concentrate deterrence/resources on few who continue
- "three strikes" model
- appeals to liberals/conservatives in different ways

* Less faith in rehabilitation/new interest in nondiscretionary punishments

* James Wilson: “New Realism”

- no use in searching for causes of crime
- swift/certain punishments for non-trial offenses: little discretion
- conservative: little attention to corporate/white-collar crime

* Liberal reformers oppose “net widening”/open-ended indeterminateness of parole/indignities of involuntary treatment

* Reality therapy: causation=excuses; favours owning up to choices

(5) Assessment of the Classical Perspective:

* Key question: does rational punishment deter deviance?

* Specific deterrence:

- Available data imperfect/methodological problems
- These studies contradict notion of specific deterrence
- Evidence suggests punishment increases later deviance
- Explanations: socialization and stigmatization
- More research needed

* General deterrence:

- More mixed results
- Certainty more important than severity
- “Tipping effect” vs. “overload hypothesis”
- More research needed

* Offender’s subjective perceptions of punishment:

- perceptions of punishment serve as deterrent

- relationship mediated/explained away by perceived level of social condemnation

* Ultimately, deterrence must be viewed tentatively because:

- real world conditions of punishment aren't swift, sure and severe
- lack of public awareness re: punishments for common crimes
- differential effects of punishment on different types of people
- differential effects of punishment in different social contexts

Realizing Rational Justice: Another Problem:

* Classical model good in that:

- free will a useful corrective to determinative theories
- its attack on the inequalities/injustices following from discretion

* Dangerous because:

- in practice reinforces structural social inequalities
- doesn't deal with structured limits on freedom to choose

* Parallels with Sadism:

- reducing social contradictions of deviance to individual choice
- advocating swift, certain, calculated punishment

* Without equalizing social/material conditions, classical theory:

- favours privileged rationality of rich, powerful and advantaged
- denies/classifies as deviant the rationality of the rest