

A Slightly Philosophical Introduction to the Study of Criminology?

about the book

This book is not meant to be read as a criminology textbook proper. In fact, it is not even an introduction to criminology. What it *does* provide is a slightly philosophical introduction to the study of criminology. The reader won't find any systematic overview or analysis of criminological perspectives and theories in this book. Nor does the book include extensive applications of such perspectives and theories to a number of issues and topics that are often considered to be part of the field of criminology. These include, *inter alia*, the causes of criminality and crime; the form, spread and distribution of crime; the workings and functioning of the criminal justice system; life in prison; the impact and effects of particular forms of punishment on convicted offenders and on society more broadly; the ongoing search for more effective, more efficient and more ethically justifiable or acceptable alternatives to the criminal justice system as we currently know it, and so on. To be sure, some of these issues and topics, and some of the more theoretical perspectives and models with which criminologists tend to study and analyse them, shall be touched upon in this short book, e.g. in order to illustrate a basic philosophical idea or tenet. However, since this is no criminology textbook proper, the reader should not expect a systematic overview. Readers who are interested in a more systematic overview of, and introduction to criminological perspectives, theories, issues, and problems, could do worse than consult the 'further reading' section placed at the end of this book, where a few very good introductory texts are signposted.

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As a philosophical introduction to the study of criminology, the book at hand aims to provide those who *intend* to study criminology with a number of fairly basic, indeed *philosophical* ideas and insights which may help them to acquire the critical tools necessary for them to orientate themselves in the vast criminological landscape. But that of course does not absolve us from having to trace the broad outlines of this criminological landscape first, that is, before we embark upon our more philosophical endeavour proper. What is criminology? What is criminology about? What kind of questions do criminologists ask themselves? Let us first say a few words on this.

about criminology

You could do the test yourself. Asked any of the aforementioned questions many, if not most will be inclined to respond by defining criminology as the scientific search for answers to the question, 'Why do people commit crime?' Some may even state that criminology is all about finding the causes of crime. In a way such definitions are not entirely incorrect. Historically, criminologists have, since the inception of their field of study during the latter half of the nineteenth century (the very word 'criminology' surfaced during the 1870s) preoccupied themselves with the *aetiology* of crime. The aetiology of crime is about the search for the principles underpinning the causal dynamics of crime. In short, it is about the 'causes of crime'. The phrase 'causes of crime' however betrays a view of crime as the more or less mechanical effect of a particular set of causes. The phrase suggests that if and when there is a certain constellation of 'causes' present, crime will follow, almost mechanically. If A (a particular constellation of causes), then B (crime), as it were. It would be hard to deny that many criminologists, particularly those working during the early days of the criminological enterprise, did indeed adopt a certain measure of mechanistic reasoning in their aetiological work. I have used the word *mechanistic* here because the 'If A, then B' kind of reasoning is often found in disciplines such as engineering (if button A is pressed, then machine B will start), physics (if A: the object is dropped, then B: gravity will

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pull it down with a speed of $9.81 - (R+M)$ m/s), or biology (if A: an infectious disease decimates the population of animals of prey in a given biotope, then B: this will in turn have a detrimental effect upon the predator population). Mechanistic cause-effect forms of aetiological reasoning in criminology might then sound as follows: if in a person is combined a particular set of social (e.g. poverty), psychological (e.g. aggressiveness), and physiological (e.g. hormonal imbalance) factors, then they are bound to commit criminal offences. On a more aggregate level mechanistic reasoning tends to sound like this: if in a particular society levels of social inequality are on the increase while institutional provisions are crumbling away then crime rates will rise.

The question however arises whether such reasoning fails to take into account the complexity of human beings, indeed of *human being* as such. Later generations of criminologists would gradually abandon mechanistic aetiology, as it became clear that human beings and their behaviour and actions could hardly be reduced to mere mechanical causes and effects. Human beings are no mere machines. They are no mere biological organisms. They could hardly be reduced to mere physical phenomena. There is something about human beings, indeed there is something about being a human being, that makes us creatures who somehow have gone beyond (in other words: who have *transcended*) the more or less mechanical cause-effect world of physics and biology. With human beings, the As are not necessarily always followed by the Bs. Human beings have an innate capacity to reflect upon their position in the world. They have this capacity to think about their past, their current position, and their future. Human beings have the capacity to attach *meaning* to their experiences; in other words, to *interpret* them in particular ways, and to base their actions on these interpretations. What's more, human beings are very likely to interpret their experiences in diverging and often highly unpredictable ways. Mere physical objects (such as rocks and clouds) or biological organisms (such as plants, viruses, squirrels, and pigs) do not possess this human capacity. They live largely in a world of causes and effects, or at least they do so to a greater extent than humans. We humans live in a world where our being a human being – our capacity to reflect upon ourselves and the world around us, and to attach meaning, to interpret, and to act on this

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interpretation – is placed squarely and firmly inbetween any causal A one might wish to detect and any possible effect B.

Many a criminologist came to realize this soon enough. After the Second World War most mechanistic forms of reasoning were already on the wane. Let us illustrate this point. Most sociologists and criminologists (e.g. Young, 1999: 8–9) would now agree that there is no direct causal connection between levels of absolute deprivation (A) and crime (B). It is not because I am terribly poor and forced to live in a boarded shack that I am necessarily going to prey on others. If everybody else I know lives under the very same conditions, and if I'm incapable or unable to imagine a different way of life, or a way out, then I am likely to choose to resign myself to my 'fate'. If however I live in a stone built house, but am constantly confronted with others, whom I do not perceive to be particularly more deserving than myself, who live in palaces, or worse, who are scrounging 'shamelessly' off 'my' tax contributions, then I might perhaps begin to contemplate the 'unfairness' of it all. Who knows, I might even begin to plan actions, some possibly illegal, in order to somehow redress the situation. Moreover, any such perceived *relative deprivation* in itself may not necessarily lead *me* to embark on a crime spree. On an aggregate level that could very well be the case: at a time or in a place marked by high levels of *relative deprivation* (the deprivation perceived by individuals who compare their own plight with that of others, particularly those who they believe are 'unfairly' privileged) one may reasonably expect overall crime rates to increase. At the level of the individual, however, the connection between perceived relative deprivation and the individual's decision to commit criminal offences is not so straightforward. Human existence, as we shall see in subsequent chapters, is much more complicated than that.

Having said that, it is perhaps wise to stress here that the above does not mean to deny that humans have physical bodies that have certain mechanical features (if you hit someone hard, pain will in most cases be felt) or that humans are biological creatures (clearly, long-term food deprivation for instance will have a serious effect on human behaviour and actions). However, what *is* claimed above is that human beings are not *just* physical or biological, or indeed mechanical creatures. Their *being* involves much, much more. In the

human world – that is – in the world as it is lived and experienced by humans, for any constellation of causal factors A-A'-A" to be able to produce, in human beings, a particular constellation of effects B-B'-B", they must first pass through the typically human and, between individuals often differing filters of interpretation, reflection and meaning. Anyone interested in finding answers to the question, 'Why do people commit crime?' should constantly bear this in mind. That's why in Chapters 2 (on Human Life) and 3 (on Human Existence) we will make an effort to flesh out this issue of what human beings are about, and what human *being* implies and entails. We shall have to introduce, in Chapters 2 and 3, a number of philosophical ideas in order to be able to do just that. There are many philosophical perspectives and theories available to us, but in this book the focus will be on a particular strand of philosophy, i.e. existentialism (Jean-Paul Sartre's in particular) and its precursor philosophy, let's call it proto-existentialism (here we'll be focusing on Friedrich Nietzsche's philosophy). Existentialism is the philosophical perspective by which its protagonists have made a serious attempt to think through what it means to be human, or, to put it slightly differently, what it means to be a human being. What does it mean, existentialists ask themselves, to be part of the human condition? Rocks, trees, squirrels and pigs do not partake of the human condition, but we, humans, do. What are the fundamental, very basic features of human existence? It should be clear that without any insight in these matters one may not hope to be able to think adequately about the first criminological question, i.e. why do people – or *some* people at least – commit crime?

Do read the preceding sentence again. It says there 'the first criminological question'. There must then be other questions which criminologists are or should be interested in. Indeed there are. Not too long after the Second World War, during the 1950s to be more precise, a number of criminologists and sociologists who were working on problems of crime and its control began to realize how crime and its control are inextricably linked. The occurrence, prevalence and spread of crime, for example, can not be studied without also looking into the nature and distribution of the measures that are taken with an eye on its control. As we shall see later (in Chapter 4), this connection had been made long before

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the 1950s, indeed long before anything like criminology itself appeared on the scene. The 1950s however did produce a new insight, or better: at that point in time an insight that had remained more or less implicit became fully explicit. The insight is this one: measures taken to control crime, whether taken deliberately or not, can, and often will, make things worse. They may, and often will, increase criminality and crime rates. Sociologists such as Edwin Lemert (1912–1996) came to note that there is such a thing as *secondary deviance* (Lemert, 1951). By that he meant deviancy that is the result of particular ways in which people, or society at large, react against crime. We are all familiar with the tale of the two boys who went plucking apples in the vicar's orchard. Let's call this 'plucking' *primary deviance*. One boy later went on to become himself a successful apple grower and cider brewer. The other boy, however, got caught in the vicar's orchard, was placed in a borstal, met other juvenile delinquents there, grew accustomed to a criminal subculture, learnt a few tricks of the delinquent trade and then decided to choose the path of a career criminal. In other words, at least *some* forms of social reaction against crime or delinquency (e.g. a noticeable punitive attitude towards youthful delinquents, or the placement in a borstal, and so on) may result in delinquents committing yet more offences (which would then constitute *secondary deviance*, all crime reduction intentions harboured or crime prevention aims envisaged by vicars, youth workers, police officers, probation officers, or prison officers notwithstanding).

The boy in the borstal may have decided to go for a criminal career for a number of reasons. He may have done so out of spite and vengeance. Or because he believed – rightly or wrongly – that in a world which had shown such hostility towards him this was the only option left. He may have decided to wear the label that was stuck on him ('thief', 'delinquent', 'criminal', and so on) as a badge of honour, as some youths choose to do when they are issued with an Anti-Social Behaviour Order or ASBO. Or he may have done so for a number of other reasons or any combination of the above. There are no mechanistic cause–effect relations here either. Particular forms of social reaction such as punitive labelling and exclusion of offenders (causes A-A'-etc) do not necessarily or mechanically lead to secondary

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deviance (effects B-B'-etc). Much will depend on how the human beings involved *choose* to interpret, reflect upon and attach meaning to their experiences with forms of social reaction such as stigmatization or ostracism. The message, however, from 1950s criminology and sociology of deviance was quite clear: the way people react to crime or deviance is an important element to grasp if one is to develop an adequate understanding of how offenders (who, they too, are human beings) may wish or decide to behave. Their behaviour may often go in directions that are unintended and unwanted by those who did the reacting, whether they be criminal justice officials or not. An age-old question, well-rehearsed among criminologists and their precursors, thus acquired a renewed impetus: 'What should we do with offenders?' Phrased differently, with moral undertones, 'What ought to be done with offenders?' In more general terms, and with an eye on policy (e.g. criminal policy, or economic and social policy) the question might sound as follows: 'What should be done about crime?'

Questions such as these make up the second theme that criminologists tend to spend a lot of time and effort on. Whereas earlier generations of criminologists might have been inclined to answer such questions in more or less principled ways (i.e. based on either theoretical or ideological principle) without much eye for the often deplorable consequences of criminal policies and other forms of social reaction (e.g. the inefficiency and counter-productivity of criminal justice systems), later generations did tend to heed the message from the 1950s. A whole new branch of criminological thinking and research emerged whereby much effort went into thinking through, and experimenting with, criminal justice reform. A number of *critical* criminologists, as they came to be known, even went so far as to claim that the criminal justice system as such, *any* criminal justice system, is beyond reform or redemption. *Abolitionists*, from about the mid 1960s through to the early 1980s, even argued for the dismantling of criminal justice systems, and proposed alternative forms of social reaction against crime. In some cases such criticism went hand in hand with a complete rethink of the aims and goals of criminal policy. A number of criminologists proposed abandoning the more conventional aims and goals such as punishment, retribution, deterrence, or incapacitation, and replacing them with new ones such as restoration (as in

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restorative justice for example) or peacemaking (as in *peacemaking criminology* for example) instead. We will have a closer look at these matters in Chapter 5.

We have now touched upon two basic themes, or questions, on which the criminological enterprise rests. The first: why do people commit crime, or why do offenders offend. The second: what should be done about crime, and what should we do with offenders. But that's not the end of it. There is a third. This third theme too is one that has been around, albeit implicitly, since the birth of criminology in the nineteenth century. We had to wait until the 1960s though for it to emerge fully fledged from the shadows. Here criminologists ask themselves the question as to why it is that societies (not just ours) have norms in the first place which then are broken or transgressed by offenders. More specifically, why is it that most if not all societies have criminal law that may, indeed shall be breached by offenders who are then called 'criminals'? We have, in this introduction, used the word 'crime' regularly. But the question now arises, what *is* 'crime'? We know there is a list of behaviours or actions that have, in the course of the years and indeed centuries, ended up on the Criminal Law statute books where they are defined as punishable crimes. This list, criminologists came to realise during the 1960s, is what it is: a list. It is man made. At some point in time each of the behaviours or actions on that list did not figure on it, and that even includes manslaughter or murder which, as historians have been able to show, long went unpunished by king or lord if blood-feuds or the payment or exchange of *wergild* between feuding families or clans managed to settle the matter. This custom survived well into late medieval times. But to continue, some behaviours and actions which are currently perfectly legal may, in future, end up on the list of 'crimes'. Take hunting with hounds for example. It was perfectly legal to hunt foxes with hounds in 1992. As a rider or a hunter taking part in such a hunt you would have had no trouble whatsoever with the law. The same behaviour in 2006, however, that is, *after* the enactment of the Hunting Act 2004, will make of you a 'criminal'. In the UK at least it will; elsewhere in the world you may still be allowed to hunt with hounds without any legal problem at all.

But there is more. Some behaviours and actions that used to figure on the statute books as punishable crimes have now been made legal. Take adultery. Or abortion. If you are a UK citizen or resident you should not fear the law too much if you engage in a little adulterous activity. And abortion is now allowed under certain conditions. Women who had abortions, say in 1964, were deemed 'criminal', while those who had them some time *after* the enactment of the Abortion Act 1967 suddenly found they had clean access to proper medical abortion facilities, all perfectly legal. The Criminal Law is not written in stone. The list of 'crimes', in the UK as elsewhere, will almost certainly change again. This fairly basic insight prompted criminologists to attempt to explain all these changes. Why is it, they wondered, that different societies have different definitions of 'crime', and why do societies change their definitions so often, historically? Criminologists and sociologists alike have in the course of the twentieth century produced a great variety of answers to these questions. It may well be impossible to list, let alone explore those explanations here. However, many, if not most criminologists would now probably agree with the thesis that changes to the criminal law or, more broadly, to social and moral norms as such, reflect the outcome of social and political struggles whereby those sections of the population who have access to the greatest variety of sources of power (wealth, entrepreneurship, organizational strength, social mobilization, and so on) usually manage to have their views reflected in those changes to a greater extent than other, less powerful sections and groups. Let us have another look at the prohibition of hunting with hounds in the Hunting Act 2004. It might not be too far-fetched an explanation that points to the economic decline of the British rural economy since the mid 1980s, or to the dwindling numbers of rural voters in the electorate; to the emergence of a knowledge based third sector economy; to the crystallization, particularly during the 1990s, of an urban professional core electorate; to a certain willingness in this highly educated core electorate to cultivate particular moral sensitivities and an eagerness to flex their political muscle symbolically; to the constant need on the part of governing elites to take heed, above all, of this important urban professional electorate's wishes and desires; and so on. There is no need though to assume any

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mechanistic development here. There is no reason to believe that societies that have the above constellation of characteristics (constellation A-A'-A"-etc, if you wish) will inevitably lead to a particular constellation of outcomes (B-B'-B"-etc), which would then invariably include the symbolic humiliation of 'rural toffs' and their leisurely pursuits. Any outcome will depend on how all human beings involved, especially those with direct political and legislative powers, *choose* to interpret, reflect upon and attach meaning to the situation they find themselves in. In the UK, after a long and protracted political struggle, the majority in Parliament ultimately *chose* to outlaw the hunting of foxes with hounds.

 about what follows

Let us now recapitulate. Criminology is, briefly put, about three basic questions. Stanley Cohen is among those who managed to summarize them most succinctly: 'Why are laws made? Why are they broken? What do we do or what should we do about this?' (1988: 9). Here they are in a slightly modified form: 'Why do definitions of crime change and vary across time and space?', and 'Why do particular behaviours and even whole groups or populations get to be criminalized in the first place?'; 'Why do people offend against norms, including legal norms such as the Criminal Law?'; and 'What should we do with offenders or, more broadly, what should be done about crime?'

In what we have seen so far it might perhaps be possible to recognize one fairly fundamental issue that seems to be cutting across all three themes, i.e. conflict. Conflict seems to be underpinning processes whereby particular behaviours or actions get to be prohibited and made punishable. Conflict seems to be present, at least implicitly, in processes whereby people decide to transgress or 'offend' the normative boundaries they are confronted with. Finally, more often than not conflict resides in a great variety of ways by which people and institutions (such as the criminal justice system) react to offenders or to crime more generally. But if conflict is of such crucial importance in matters pertaining to crime and its control, then it might be a good idea if criminologists reflected in some depth on

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this issue of conflict. Suppose we could, as human beings, do away with conflict altogether; would this mean that crime will then subsequently also disappear? Will there then be no longer any need for criminalization, or for criminal policy? Is it possible to actually think or devise ways of dealing with offenders or with crime more generally that do not in any way rest on conflict? Is it even remotely possible to imagine criminal policy without conflict? And supposing the answer to such questions is a resounding 'No', what then are we to do? What may we hope for? Questions such as these will appear and re-appear in different guises throughout Chapters 2 to 6 and shall in a way provide the common thread in the remainder of this book.

It is possible to reduce criminology's three questions to two. One might perhaps be able to subsume both the question about criminalization and the one about reactions under the more generic umbrella of 'crime control'. The remaining question, i.e. the one about criminal aetiology, we could then, for the sake of argument, call the 'crime' issue. Chapters 2 and 3 will focus on this crime issue. In both chapters we will make an effort, using Nietzsche's proto-existentialist thought and Sartre's post-war existentialism, to see if there are elements, in what one might arguably call the human condition, and in human existence, which criminologists interested in aetiology might do well to contemplate. In both subsequent Chapters 4 and 5 the attention gets drawn onto crime control. Since, obviously, crime control is fully part of the human condition and of human existence, it should come as no surprise if some of the insights generated earlier will have effects that spill over well into these chapters. But eastern philosophies, Buddhism in particular, will also make an appearance here. Not only is there a *family resemblance* (to borrow a phrase from Ludwig Wittgenstein) between Buddhism and (proto-) existentialism, the former actually has been and still is one of the crucially important sources of inspiration for peacemaking criminologists, whom we already have mentioned. In Chapters 2 to 5 then, if you wish, an attempt will be made to provide students with a number of fairly basic ideas and, one might hope, insights which anyone interested in thinking about issues of crime and crime control may find useful. There is also a sixth chapter. Indeed, this 'thinking about issues of crime and crime control' is of course itself fully part of the human condition. The act of 'thinking' is itself

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inescapably part and parcel of human existence. We cannot then finish this book without saying a few things about this ‘thinking’ or, in other words, about the production of criminological knowledge itself. The book ends with a short Afterthought.

It should perhaps go without saying that the short space of this book will not allow for an extensive philosophical exploration of the criminological enterprise. However, I do hope that the small selection of philosophical materials gathered here for the purpose of this book will be sufficient to encourage students to venture further afield, on their own initiative and at their own leisure. Eager students may be able to find a number of reading tips in the ‘Further Reading’ pages at the end of the book.