

# CRIMINOLOGY AND THE CRIMINAL JUSTICE SYSTEM

A Historical and Transatlantic  
Introduction

Cyrille FIJNAUT



intersentia

Cambridge – Antwerp – Portland

# CONTENTS

<i>Preface</i> .....	v
<b>Chapter 1. General Introduction</b> .....	1
1.1. Basic Principles of this Work .....	1
1.2. Architecture of this Book .....	3
<b>Chapter 2. Origin of the Present-Day Criminal Justice System</b> .....	9
2.1. Introduction .....	9
2.2. Transition from Accusatory to Inquisitorial Criminal Proceedings .....	10
2.3. <i>Boeventucht</i> by Dirk Volckertszoon Coornhert .....	13
2.4. Renewal of the Prison System .....	16
2.5. Modernisation of the Police System .....	21
2.6. Conclusion .....	24
<b>Chapter 3. Restructuring of the Criminal Justice System During the Enlightenment and the French Period</b> .....	27
3.1. Introduction .....	28
3.2. The Spirit of the Age: Charles-Louis de Secondat, Baron de la Brède et de Montesquieu and Jean-Jacques Rousseau .....	28
3.2.1. Montesquieu: <i>De l'esprit des lois</i> .....	28
3.2.2. Rousseau: <i>Du contrat social</i> .....	30
3.3. Cesare Beccaria's Manifesto <i>Dei delitti e delle pene</i> .....	31
3.3.1. Basic Principles of the Manifesto and their General Consequences .....	32
3.3.2. Purposes of Punishment and their Implementation .....	34
3.3.3. Categories of Crimes and Types of Punishments .....	35
3.3.4. A Staunch Defender of Freedom and a Militant Opponent of Criminals .....	37
3.3.5. Various Random Thoughts on Crime Prevention .....	37
3.4. Reception of Beccaria's Manifesto within Europe .....	38
3.4.1. A Mixed Reception in Italy, Germany, Russia, Scandinavia, and France .....	38
3.4.2. An Unqualified Success in Britain: Jeremy Bentham .....	40

3.4.3.	A Lukewarm Response in the Austrian Netherlands: Goswin de Fierlant . . . . .	42
3.4.4.	Divided Opinions in the Northern Netherlands: Henricus Calkoen . . . . .	43
3.5.	Initial Steps Towards a Different View of <i>homo criminalis</i> . . . . .	46
3.6.	Further Renewal of the Prison System . . . . .	49
3.6.1.	Reorganisation of the House of Correction in Ghent: Jean Vilain XIII . . . . .	51
3.6.2.	Analysis of Europe's Prison Systems: John Howard . . . . .	55
3.6.3.	The Prison as a Panopticon: Jeremy Bentham Once More . . . . .	59
3.7.	Further Modernisation of the Police System . . . . .	62
3.7.1.	Reorganisation of the Police in Vienna and London . . . . .	63
3.7.2.	Reorganisation of the Police in the Austrian Netherlands . . . . .	66
3.8.	Developments in the French Period . . . . .	68
3.8.1.	The French Revolution and the Criminal Justice System . . . . .	68
3.8.2.	Strengthening of the Criminal Justice System in the Napoleonic Era . . . . .	70
3.9.	Conclusion . . . . .	71

**Chapter 4. Emergence of the Scientific Study of Crime, Criminals,  
and the Combatting of Crime . . . . . 75**

4.1.	Introduction . . . . .	76
4.2.	Battle about the Future of the Prison System . . . . .	77
4.2.1.	Gap between Idea and Reality . . . . .	77
4.2.2.	Development of a Penitentiary System in the United States . . . . .	79
4.2.3.	Reform of the Prison System in Britain and France . . . . .	83
4.2.3.1.	From Elizabeth Fry to Mary Carpenter . . . . .	83
4.2.3.2.	From François La Rochefoucauld to Alexis de Tocqueville . . . . .	85
4.2.4.	Reform of the Prison System in the Netherlands and Belgium . . . . .	88
4.2.4.1.	Policy in the United Kingdom of the Netherlands . . . . .	88
4.2.4.2.	Continuation of the Policy in the Netherlands: From Louis Bauricius to Anthony Modderman . . . . .	91
4.2.4.3.	Continuation of the Policy in Belgium: From Édouard Ducpétiaux to Édouard Ducpétiaux . . . . .	93
4.3.	Development of the Modern Policing System . . . . .	99
4.3.1.	Further Development of the Policing System in France and Germany . . . . .	100
4.3.1.1.	Developments in France . . . . .	100
4.3.1.2.	Developments in Germany . . . . .	102
4.3.2.	Modernisation of the Police in the United Kingdom . . . . .	103

4.3.3.	Further Development of the Policing System in the Netherlands and Belgium .....	105
4.3.3.1.	Developments in the Netherlands .....	105
4.3.3.2.	Developments in Belgium .....	106
4.4.	Three Contrasting Scientific Approaches to Crime and the Criminal ....	107
4.4.1.	Biological Approach: The Phrenology of Franz Gall.....	108
4.4.2.	Psychiatric Approach: The Monomania Doctrine of Jean-Étienne Esquirol .....	110
4.4.3.	Sociological Approach: The Social Physics of Adolphe Quetelet .....	112
4.4.3.1.	Quetelet's Life and Ideas.....	113
4.4.3.2.	Quetelet's Principles for Studying Crime and the Criminal.....	115
4.4.3.3.	Quetelet's Explanations of the Nature, Extent, and Development of Crime .....	118
4.5.	Evolutionary and Revolutionary Thinkers on Crime, Criminals, and the Combatting of Crime .....	120
4.5.1.	Two Evolutionary Thinkers: Bénédict Morel and Charles Darwin.....	121
4.5.1.1.	Morel's Degeneration Thesis .....	121
4.5.1.2.	Darwin's Theory of Natural Selection.....	122
4.5.2.	Two Revolutionary Thinkers: Karl Marx and Friedrich Engels.....	124
4.6.	Conclusion .....	127
<b>Chapter 5. Establishment of Criminology in Italy and France .....</b>		<b>131</b>
5.1.	Introduction .....	131
5.2.	Italian School: Cesare Lombroso, Enrico Ferri, and Raffaele Garofalo....	133
5.2.1.	Lombroso's New Paradigm: The Atavistic Criminal .....	134
5.2.2.	Typological and Differential Elaboration on the Paradigm ....	139
5.2.2.1.	Development of a General Typology of Criminals....	139
5.2.2.2.	Differential Application of the Paradigm to Female Criminals and Political Criminals .....	142
5.2.3.	Scientific Revolution at an Impasse: The Diverging of Opinions .....	146
5.2.4.	Lombroso's Views on Criminal Law, the Criminal Justice System, and the Combatting of Crime .....	148
5.2.5.	Ferri and Garofalo, Lombroso's Associates in the Italian School .....	150
5.2.5.1.	The Sociology of Enrico Ferri .....	150
5.2.5.2.	The Criminology of Raffaele Garofalo .....	155

5.2.6.	Criminology becomes a University-Level Field of Study . . . . .	160
5.3.	Opposition from France: Alexandre Lacassagne, Gabriel Tarde, and Émile Durkheim. . . . .	162
5.3.1.	Schisms between the Italian and French Schools . . . . .	162
5.3.2.	Alexandre Lacassagne: Lombroso's Polar Opposite . . . . .	165
5.3.3.	Gabriel Tarde: Originator of the Imitation Theory . . . . .	168
5.3.4.	Émile Durkheim, a Sociologist in Criminology . . . . .	172
5.3.5.	Application of Criminology in Policy and Practice. . . . .	178
5.3.5.1.	Role of Academic Criminology in Criminal Policy . . .	178
5.3.5.2.	Practical Application of Criminology: Anthropometry, Dactyloscopy, and Scientific Police . . . . .	183
5.4.	Conclusion . . . . .	189

**Chapter 6. Development of Criminology in German-Speaking Europe  
and the United Kingdom . . . . . 193**

6.1.	Introduction . . . . .	194
6.2.	Development of Criminology in German-Speaking Europe. . . . .	196
6.2.1.	The Pioneer of Criminology: Franz von Liszt . . . . .	196
6.2.2.	From Criminal Anthropology to Criminal Biology . . . . .	200
6.2.2.1.	Hans Kurella: Tireless Champion of Lombroso . . . . .	200
6.2.2.2.	Gustav Aschaffenburg: The German Counterpart of Lombroso and Lacassagne . . . . .	202
6.2.2.3.	Return to the Roots: The Rise of <i>Kriminalbiologie</i> . . .	206
6.2.3.	Flourishing of Modern Criminal Psychology . . . . .	212
6.2.3.1.	Criminal Psychology from a Reformist Perspective. . .	213
6.2.3.1.1.	The Starting Point: The <i>Kriminalpsychologie</i> of Hans Gross . . . . .	213
6.2.3.1.2.	Criminal Psychology as the Psychology of Crime and the Criminal: Gustav Aschaffenburg, Max Kaufmann, and Erich Wulffen. . . . .	216
6.2.3.1.3.	Criminal Psychology as the Psychology of Testimony, Confession, and Interrogation: Adolf Stöhr, Albert Hellwig, and Otto Mönkemöller. . . . .	218
6.2.3.1.4.	Criminal Psychology as the Psychology of Criminal Law and the Criminal Justice System. . . . .	220
6.2.3.2.	Criminal Psychology from an Abolitionist Perspective. . . . .	221

6.2.3.2.1.	Criminal Psychology as the Psychoanalysis of Crime and the Criminal: August Aichhorn, Franz Alexander, and Hugo Staub . . . . .	222
6.2.3.2.2.	Criminal Psychology as the Psychoanalysis of Testimony, Confession, and Interrogation: Theodor Reik. . . . .	223
6.2.3.2.3.	Criminal Psychology as the Psychology of the Criminal Law and the Criminal Justice System: Paul Reiwald . . . . .	225
6.2.4.	Academic, Policy, and Practical Consequences of Criminology . . . . .	226
6.2.4.1.	Denial of Criminology at the Universities. . . . .	226
6.2.4.2.	Application of Criminology in Policy . . . . .	227
6.2.4.3.	Hans Gross, <i>Kriminalistik</i> and <i>Bertillonage</i> . . . . .	228
6.2.4.4.	The <i>Kriminalpolizei</i> under the Spell of <i>Kriminalbiologie</i> . . . . .	233
6.3.	Development of Criminology in the United Kingdom . . . . .	235
6.3.1.	Mixed Responses to Italian Bio-Anthropology . . . . .	236
6.3.2.	Charles Goring and <i>The English Convict</i> : A Litmus Test for Lombrosian Ideas? . . . . .	242
6.3.3.	Bio-Psycho-Sociologisation of the Criminal between the Wars. . . . .	248
6.3.4.	“Continental” Starting Point of Modern Criminology. . . . .	253
6.4.	Conclusion . . . . .	256

**Chapter 7. Establishment of Criminology in the Netherlands and Belgium . . . . . 259**

7.1.	Introduction . . . . .	260
7.2.	Establishment of Criminology in the Netherlands . . . . .	261
7.2.1.	Driving Forces behind Criminology: Gerard van Hamel, Arnold Aletrino, and Willem Bonger . . . . .	261
7.2.1.1.	Messenger of Criminology: Gerard van Hamel . . . . .	261
7.2.1.2.	Champion of Criminal Bio-Anthropology: Arnold Aletrino. . . . .	264
7.2.1.3.	Proponent of a Marxist Criminology: Willem Bonger . . . . .	266
7.2.2.	Proponents and Opponents of the New Direction . . . . .	273
7.2.2.1.	Proponents of the New Direction. . . . .	273
7.2.2.2.	Opponents of the New Direction . . . . .	276
7.2.3.	Impact of the New Direction in the Criminal Justice System . . . . .	278

7.2.3.1.	First Example: The Treatment of Dangerous Criminals . . . . .	279
7.2.3.2.	Second Example: The Elimination of Cellular Confinement . . . . .	282
7.2.3.3.	Third Example: The Scientification of Criminal Investigation . . . . .	284
7.2.4.	Establishment of Three University Institutes . . . . .	285
7.2.4.1.	Leiden Institute . . . . .	286
7.2.4.2.	Utrecht Institute . . . . .	288
7.2.4.3.	Groningen Institute . . . . .	291
7.3.	Establishment of Criminology in Belgium. . . . .	293
7.3.1.	Forerunners of Criminology: Paul Heger and Adolphe Prins . . . . .	293
7.3.1.1.	Bio-Anthropological Insights of Paul Heger and Jules Dallemagne . . . . .	294
7.3.1.2.	Development of the Criminal-Political Programme of Adolphe Prins . . . . .	296
7.3.2.	Opponents in the Parliamentary, Academic, and Judicial World . . . . .	301
7.3.3.	Criminal Justice Policies of Jules Lejeune, Henri Carton de Wiart, and Emile Vandervelde . . . . .	303
7.3.3.1.	Introduction of the Suspended Sentence and Release on Probation . . . . .	305
7.3.3.2.	Introduction of Child Protection Legislation . . . . .	306
7.3.3.3.	Professionalisation of Criminal Investigation and Prosecution . . . . .	307
7.3.4.	Establishment of Four University Schools . . . . .	310
7.3.4.1.	Leuven School . . . . .	311
7.3.4.2.	Brussels School . . . . .	317
7.3.4.3.	Ghent School . . . . .	319
7.3.4.4.	Liège School . . . . .	320
7.4.	Conclusion . . . . .	321
 <b>Chapter 8. Ideologisation of Criminology in the Third Reich and the Soviet Union . . . . .</b>		<b>325</b>
8.1.	Introduction . . . . .	325
8.2.	Nazification of Criminology in the Third Reich . . . . .	326
8.2.1.	National Socialist Hijacking of Discussion in the Weimar Republic. . . . .	326
8.2.2.	Radicalisation of Nazi Criminal Policy After 1936 . . . . .	328
8.2.3.	Nazi Criminology and Criminal Policy: Edmund Mezger, Franz Exner, Wilhelm Sauer, and Hans Schneickert . . . . .	332

8.2.4.	Disappearance of <i>Kriminalbiologie</i> After the Fall of the Third Reich .....	339
8.3.	Bolshevisation of Criminology in the Soviet Union .....	342
8.3.1.	Blossoming of Criminology in the 1920s .....	343
8.3.2.	Elimination of Criminology in the 1930s and 1940s .....	345
8.3.3.	Revival of Criminology in the 1950s .....	349
8.4.	Conclusion .....	352
<b>Chapter 9. Reception of European Criminology in the United States. ....</b>		<b>355</b>
9.1.	Introduction .....	357
9.2.	Criminal Anthropology Crosses the Atlantic .....	359
9.2.1.	Richard Dugdale and other Precursors of Cesare Lombroso. ...	359
9.2.2.	Actual Transmission of Criminal Bio-Anthropology .....	363
9.2.2.1.	Pace and the Overall Content of the Message .....	364
9.2.2.2.	Thomas Wilson: Curator at the Smithsonian Institution in Washington .....	365
9.2.2.3.	Arthur MacDonald: A Transatlantic Missionary for Criminal Bio-Anthropology .....	366
9.2.2.4.	August Drähms: The Idiosyncratic Follower of Lombroso .....	367
9.2.2.5.	Henry Boies: The Criminal Justice System as the Defence of Society .....	369
9.2.2.6.	Charles Henderson: Criminal Sociology along the Lines of Enrico Ferri .....	371
9.2.2.7.	Maurice Parmelee: The Advocate of the Integration of Criminology and Criminal Science .....	373
9.3.	A Ground-Breaking Conference on Criminal Law and Criminology: Chicago 1909 .....	376
9.3.1.	Background and Outcome of the Conference .....	376
9.3.2.	Fruits of the Conference: Translations, a Journal, and Laboratories .....	378
9.3.3.	Transformation of Ideas into Empirical Research: William Healy and Augusta Bronner .....	381
9.4.	Revival of Bio-Anthropological Criminology at Harvard University .....	385
9.4.1.	Ernest Hooton: The Bio-Anthropology of the American Criminal .....	386
9.4.2.	Sheldon and Eleonora Glueck: Preventing and Combatting Juvenile Delinquency .....	389
9.4.3.	James Wilson: The Revival of Biologically Oriented Criminology .....	394



9.5.	Theoretical, Methodological, and Thematic Innovation in Sociologically Oriented Criminology . . . . .	395
9.5.1.	Social Geography and Biography/Autobiography of Juvenile Delinquency at the University of Chicago . . . . .	397
9.5.1.1.	The Founders: Robert Park, Ernest Burgess, Georg Mead, and William Thomas. . . . .	397
9.5.1.2.	Surviving in the Wilderness: Frederic Thrasher's 1,313 Gangs . . . . .	398
9.5.1.3.	Disorganisation, Conflict, and Inequality: Clifford Shaw, Henry McKay, and their Associates. . . . .	401
9.5.1.3.1.	<i>The Juvenile Delinquent: The Personification of Social Disorganisation</i> . . . . .	402
9.5.1.3.2.	<i>Delinquency Areas: "Nature Reserves" with a Different Culture</i> . . . . .	404
9.5.1.3.3.	Juvenile Delinquency: A Tradition in Unequal Social Circumstances. . . . .	407
9.5.1.4.	Biographical/Autobiographical Studies of Clifford Shaw and Associates and Edwin Sutherland: <i>The Jack-Roller, Brothers in Crime</i> and <i>The Professional Thief</i> . . . . .	408
9.5.2.	Differential Association Theory, the Anomie Theory, and the Culture Conflict Theory . . . . .	414
9.5.2.1.	Edwin Sutherland: The Differential Association Theory. . . . .	414
9.5.2.2.	Robert Merton: The Anomie Theory . . . . .	420
9.5.2.3.	Thorsten Sellin: The Culture Conflict Theory. . . . .	422
9.5.3.	Impact of the "Golden Years" of 1927–49 in Criminological Research. . . . .	424
9.5.4.	Sociology of Organised Crime: Frederic Thrasher and John Landesco. . . . .	427
9.5.4.1.	Frederic Thrasher's <i>The Gang: The Eye-Opener</i> . . . . .	428
9.5.4.2.	John Landesco: Chicago in the Grip of Organised Crime . . . . .	429
9.5.4.3.	Congressional Investigations: Estes Kefauver, John McClellan, and Robert Kennedy . . . . .	435
9.5.5.	Edwin Sutherland: <i>White Collar Crime</i> or the Redefinition of Criminology . . . . .	438
9.6.	Influence of Criminology on the Criminal Justice System . . . . .	442
9.6.1.	Transformation of the Prison System . . . . .	442
9.6.1.1.	Elmira: The Demise of a Puritanical Ideal. . . . .	444
9.6.1.2.	General Fiasco of the Prison System . . . . .	447
9.6.2.	Professionalisation of the Police. . . . .	450
9.6.2.1.	An Arduous Task in Two Stages . . . . .	450

9.6.2.2.	Criminology as a Means of Police Reform . . . . .	452
9.6.2.3.	August Vollmer: Founder of the School of Criminology in Berkeley . . . . .	454
9.6.3.	Development of Interrogation and Testimony Psychology . . . .	456
9.7.	Conclusion . . . . .	459
<b>Chapter 10. Transatlantic Integration of Criminology . . . . .</b>		<b>463</b>
10.1.	Introduction . . . . .	464
10.2.	Turmoil in the United States . . . . .	465
10.2.1.	Unrest in the Country and the Breakthrough of Police Research . . . . .	465
10.2.2.	Rise of Marxist Criminology . . . . .	468
10.2.3.	Flourishing of Interactionist Criminology . . . . .	471
10.2.4.	Rise of Neo-Classical Criminology . . . . .	476
10.3.	Turmoil in Europe . . . . .	485
10.3.1.	Further Europeanisation of Criminology in Europe . . . . .	485
10.3.2.	Americanisation of British Criminology . . . . .	488
10.3.2.1.	Americanisation of Research . . . . .	488
10.3.2.2.	Rise and Fall of Marxist Criminology . . . . .	492
10.3.3.	Tradition, Conflict, and Reconciliation in German Criminology . . . . .	499
10.3.3.1.	Continuation of Pre-War Criminology . . . . .	499
10.3.3.2.	Fritz Sack: Critical Criminology and Criminal Science . . . . .	501
10.3.3.3.	Günther Kaiser: The Max Planck Institute and Empirical Criminology . . . . .	505
10.3.3.4.	Freiburg Memorandum: A Communal Cry of Distress . . . . .	509
10.3.4.	Tradition, Innovation, and Conflict in French Criminology . . . .	512
10.3.4.1.	Divided Continuation of a Criminological Tradition . . . . .	512
10.3.4.2.	Renewal of Criminology by Philippe Robert . . . . .	517
10.3.4.3.	University Institutes Up in Arms about the “Bauer Gang” . . . . .	521
10.3.5.	Development of Criminology in Belgium . . . . .	523
10.3.5.1.	Pioneering Research at the Catholic University of Leuven . . . . .	524
10.3.5.2.	General Innovation in Research . . . . .	530
10.3.6.	Development of Criminology in the Netherlands . . . . .	533
10.3.6.1.	Multifaceted but Turbulent Changing of the Guard . . . . .	534

10.3.6.2. Expansion of Criminological Research in the 1990s ...	540
10.4. Conclusion .....	542
<b>Chapter 11. General Conclusion .....</b>	<b>545</b>
11.1. From the Past to the Present .....	545
11.1.1. The Volatile History of Criminology.....	546
11.1.2. Ties between Criminology, the Criminal Justice System, and Combatting Crime .....	548
11.1.3. Decisive Factors in the Development of Criminology .....	549
11.2. From the Present to the Future .....	550
11.2.1. Future Development of Criminology .....	551
11.2.2. The Global Need for Criminology.....	553
11.2.3. Will Fragmentation Lead to the Demise of Criminology?.....	554
<i>Bibliography</i> .....	557
<i>Register of Names</i> .....	639