



Is Criminality a Matter of Choice? Sociological Analysis of Violently Committed Robberies; a critique of the Pakistani Legal-Administrative System's Failure in Pakhtun Society

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Abstract

Is crime a matter of choice, is an arguable and debatable phrase and conception about the existence of criminality since the Rational Choice theory emerged in the 18th century. The classical criminologists argue that "human is a calculating animal", who is "choosy" and "selective" in his/her actions. The analytical quality of human enables them to assess the cost and benefit of their actions, out of which they thoughtfully choose and commit the action, which they consider lucrative and utilitarian. Such debate is framed and analyzed in this study through a qualitative framework to understand the implications and legality of Rational Choice patterns in criminality focusing on property crimes, which are violently committed especially the "robberies". The cases of violent robberies in the area under study that is a Pakhtun society are selected in which murders have taken place. Alongside, the legal-administrative structure of the area is also taken into account to understand the criminals' mindset and the role of system in terms of its failure while ensuring the protection of masses from "rationally violent criminals". The murderous robberies are conveniently selected where the incident-survivors or the co-victims are interviewed and analyzed in relation to the existing literature. The study finds the answer as "yes, criminality is a matter of choice and planning", which is discussed under the "discussion section". The overall analysis of the study is undertaken through Thematic Analysis Model for more qualitative elaboration of the issue.

Keywords: crime, violence, murder, rationality/rational choice, robbery, burglary, legal and administrative system

1. Introduction and Background of Rational Choice Perspective on Crime

Criminologists usually attempt to gather facts for scientific and systematic interpretation through verifiable assumptions and theories of crime causation for identification of active factors behind it (Siegel, 2007). Since the late nineteenth century, criminological theory has pointed to various underlying causes of crime by generally attributing crime to atypical body formation, genetic abnormality, insanity, physical anomalies (as discussed before). Besides such biological or genetic causation, the other schools have adopted factors other than biology such as poverty, peer influence, familial dysfunction, and human rationality (Siegel, 2007).

Rational choice theory has its roots in the classical school of criminology developed by the Italian social thinker Cesare Beccaria⁵ (Devine, 1982) who kept his utilitarian views and proposed a kind of fair punishment to deter crime (Fridell, 2004). In the present day, we are familiar with multiplicity of deviant behavior through media and sources reflecting the arrests and incarcerations of drug sellers, murderers, law violators, rapists, and other violent form of criminals. It becomes a matter of concern, whether all these antisocial actions are presumably the matters of choice, compulsion, or any other motive. The view that crime is a matter of rational choice is held by several criminologists who believe that the decision to violate any law by committing a robbery or putting violence on others is made for several personal reasons such as malice, aggression, greed, revenge or need (Siegel, 2007). Regardless of the motive, criminal conducts take place when individuals thoroughly analyze its benefits and consequences. Beccaria, on the other hand, applied these principles to criminal behavior in his famous treatise 'On Crimes and Punishment' (Chisholm, 1911). His belief associates with that of Bentham's⁶ that people wish to get pleasure and avoid pain, for which the traditional system of torture and punishment was incompatible and inappropriate (Craig & Stephen, 2009).

Beccaria reasoned that death punishment for every felon is not the ultimate solution for controlling criminality because of little incentive to criminals not to escalate the severity of their crimes (Siegel, 2007). To deter crime, the pain of punishment must be administered in a fair, balanced and proportionate amount to counterbalance the pleasure obtained from crime that must be essentially public, prompt and dictated by law (Wolfgang, 1958). Basic elements in writings of Beccaria and his followers (mainly referred as Classical Criminology) addressed that in every society people have free will to choose solutions (criminal or lawful) for meeting their needs where the criminal solutions are more persuading and attractive, while the fear of punishment can deter the criminal choice through its severity, certainty, and swiftness (Craig & Stephen, 2009; Chisholm, 1911). Resultantly, the classical perspective of Beccaria drawn numerous impacts on penal practices for more than two centuries for making law as compatible to crime and dealing with serious offenses by the catching phrase as 'let the punishment fit the crime' (Siegel, 2007).

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⁵ Cesare Bonesana-Beccaria (1738-1794) was an Italian Jurist, Philosopher, Criminologist and Politician. A thinker among the classical philosophers and considered as father of criminal theory, who highly influenced the School of Classical Criminology through his contribution of Rational Choice Theory.

⁶ Jeremy Bentham (1748-1832) was an English Jurist, Philosopher and Social Reformer and founder of modern Utilitarianism.

During the eighteenth century, social philosophers such as Jeremy Bentham (1748-1832) began to embrace the view that human behavior was a result of rational thought process (Harrison, 1995; Bentham, 1978). Bentham's utilitarianism helped popularize Beccaria's views that crime can be controlled through judicious punishment got fame and accepted throughout Europe and United States (Roshier, 1989). The utilitarianism revealed that people choose their actions after evaluating the investments and outputs by believing that their actions will amplify the pleasure and diminish the pain (Boralevi, 1984; Bentham, 1967 & 1978). In this connection, he assumed that criminal behavior could be eliminated and controlled if law violators are realized that punishment exceeds the pleasure of benefits (Bedau, 1983; Haider & Ali, 2015; Kassem et al., 2019). Bentham's philosophy in support of Beccaria stressed that the purpose of law is to produce and support the total happiness of society and its existence can only be justified if it is successful in prevention of evils (Siegel, 2007). In this connection, punishment owes four major objectives as its goals including 'prevention of all criminal offenses', 'if the crime is not completely prevented, it must convince the offender to commit less serious crime', 'criminals must be ensured not to use unnecessary force' and 'prevention of crime at the lowest cheap cost' (Bentham, 1967). By and large, Beccaria's thoughts and writings proved as masterpiece in field of criminology and criminality controlling aspects that were credited as the basis for elimination of torture and severe punishment in nineteenth century. The practice of incarcerating criminals and structuring prison sentences to fit the severity of crime reflected his classical criminology (Siegel, 2007). A backlash occurred in classical criminology and rational choice approaches of both Beccaria and Bentham's philosophies at the end of nineteenth century till the medieval twentieth century. The perspective was confounded by criminologists as the positivist criminologists focused on internal and external factors such as poverty, education, domestic life issues as basis for crime causation (Siegel, 2007). Instead of receiving a strong rejection, the principles of classical criminology are still practiced by different correctional agents like police, courts and crime detecting agencies.

2. The Argument

Crime is a universal matter and pattern of concern existing since the human existence on this terrestrial surface. According to Emile Durkheim while explaining crime as a persistent human behavior like other routine and commonplace actions that "no society is crime-free" (Garland, 2013; Cohen & Machalek, 1994). Although the patterns and mechanisms vary from time to time, area to area, society to society and case to case, yet the prevalence of crimes is universal. Human societies are dominantly diverse and dynamic because human by nature and nurture is dynamic and loves diversity. In this context, the Durkheimian approach that crime as part of human's dynamic nature is not a big reason to worry about, rather might be dealt as one of the behaviors expressed by humans in the wake of some extraordinary forces that are beyond the human's control. Contrary to this conception, the ideology of classical criminology (as discussed above) finds its basis in human's rationality and thinking and planning capability, which denotes crime as a "matter of choice". This study emphasizes and analyzes criminality under the perspective of "choice" and crime as a properly thought and selected action, rather than a commonly placed and occurred action in some sort of impulsivity and insanity. Rejecting the philosophy of psychological reasons, the rational approach thus believes that almost all crimes either personal (violent) or impersonal (property) are the products of individual's choice having a predetermined thought process about cost and benefit of their actions considering the gains or earning some good for them. As human's nature consists of the qualities of greed, comfort, ease and earning more by putting less efforts, the ideation of rational choice approach thus fits the context that "crime might be the matter of choice". Is crime a matter of choice? The phrase is empirically analyzed in the upcoming discussion particularly focusing on Pakhtun society.

3. Methodology

The present study is framed under the qualitative paradigm of research focusing on exploratory research design, case study method (selection and elaboration of some evident cases) through Thematic Analysis presented by Braun & Clarke's (2006) model. The cases of property crimes, which are committed through incorporating violence are conveniently selected. The harshest of cases in which murders were committed during property crimes were given highest priority, where the data was collected from the co-members, co-survivors, and co-victims of incidence. The members who were personally present at the occasion of the crime were selected as samples of the study and interviewed through an open-ended guide to understand the concept and derive the concepts of "rational choice" in that situation. The survivors' and victims' privacy is ensured through coding and use of pseudonyms in the manuscript.

4. Analysis and Discussion

The collected data is thematically analyzed under the theme derived through data processing in six-step model. Discussion has been made accordingly with reference to the cited literature and support of empirical data in the form of illustrative quotes derived from interview data.

4.1. Violent Robberies, the Intent of Choice, Survivors' Impairment and Offenders' Protection & Failure of the System

Studies predominantly reveal that robberies and burglaries in general are the crime committed most often violently or through intimidation (Siegel, 2007; Bartol, 1995). The decision made to rob usually initiates with a desire of committing a felony in the wake of wanting money (Feeney, 2017). It is strongly believed that very few of the robberies were found being unplanned and undecided while rest of the majority are planned, framed, and intentionally committed verified through the use of weapons which the criminals possess such as firearms and knives (Zhou et al., 2019). Robberies and burglaries are often committed in groups, which entail the philosophy that these are predominantly actions of choice and planning. The idea to rob and burglarize are specifically based on the idea that these actions are purely incremental committed for the purpose to earn through terrorizing the victims.

Similar facts are found in the area under study where robberies and burglaries are commonplace actions since very long. It is observed that the business community is highly targeted, robbed and burglarized. Among the business owners, those being soft targets such as vendors of the currency exchange and jewelry shops are excessively targeted. Reasons behind targeting them are found as,

“... we the jewelers are soft targets to them (robbers). What we have (the gold) is extremely precious and expensive, and easy to be stolen and kept hidden. A little amount of it earns a good amount of money while gold is easy transferrable, convertible (to other shapes) and taken away. Even the transformed and converted forms of gold earn more for them (robbers). Another reason is that we do not and cannot keep any security with. There are two reasons; 1) we cannot afford the security and if we can, a single security personnel cannot stop them, rather the situation might be worsened with the presence of security personnel and 2) keeping a security personnel exposes you. The robbers consider that this shop has something very special and precious for which they have hired the security”.

On the contrary, the currency exchange vendors are heavily assaulted both inside the shops and during travelling while taking the collected exchanged currency to other markets. They are robbed and violence is inflicted on them in both the situation. It is also believed that such vendors are the easiest of targets who are victimized easily, for instance,

“... we the currency exchange owners have been excessively terrorized and victimized by robbers and burglars. The reason is that they know that we have a lot of money all the time both in the form local and foreign currency. We are compelled to keep the money because our business is predominantly in cash, and keeping cash is our compulsion. If we keep the cash, we are robbed, if we don't our business gets down”.

The incidences of violence particularly the murders of such victims have been commonplace among business community. It is observed that whenever the shop owners have resisted during robbery, they are instantly killed. The reasons behind killings are multiple, such as the robbers want the money or gold or any other object (for which they have come) want it at any cost, and they do not tolerate any kind of resistance. Besides, the robbers usually suspect that the owner has pointed and recognized them. The fear of recognition compels them to kill the person to remove any sort of future threat in shape of witnessing and pursuing the case. Further, there are also reason that the robbers (especially members of gangs) want to spread the terror and they even kill the victims without any resistance. The motive behind such killing is make the future robberies easier, convincing, and possible. With this conception, the business community is terrorized. They agree that resisting will surely lead to their death, which they avoid in future incidence if they face. The following quotes justify such facts as,

“Me and my brother were at our currency shop. It was around 11am. Two persons with muffled faces having pistols in hands entered our shop. One of them pointed to the drawer and ordered to pullout the money. We were in shock and couldn't make our minds what to do. My brother unknowingly and unintendedly asked them “who are you”. One of them hit him with the pistol in his head and ordered not to ask silly questions. I handed them the money, but my brother asked me not to give. He was thrashed severely on his face and head. After taking all the money, my brother uttered a single phrased which took his life i.e., “I'll see you”. Hearing one of them shot him with three bullets in the chest”.

“I have currency shop. I usually go to home in the afternoon for lunch when my son returns from school and comes to shop. The same day I followed my routine and left my son in the shop. I received a call at home that my son is injured in a fight with someone and is in the hospital. I rushed to the hospital and found dead body of my son who was shot twice in head. On inquiry, I came to know that robbers have killed him when he resisted to give the money. I put his dead body on the main road, and protested to sensitize the government to find and arrest the robbers. I was assured about the strict action, but still after one and half year, I haven't been given with justice. I lost my son, and world is going on its routine. Everyone has forgotten what was happened.

“In the morning I was on my way to shop having the gold in a shopper which I took with my last night for safety from burglary. In the mid-way, two persons on a motorbike snatched the shopper. They were rushing and I followed them while running after. I took a stone to hit them, when the one seating behind turned his hand started firing with pistol. I received one shot on my thigh and laid down. I'm happy that I survived but nobody took any action against them only registering an FIR in the police station. This is how we live and do business in terror”.

4.2. Critique of the Legal and Administrative System

The Pakistani legal system is extremely pathetic in provision of justice to the victims. The old system of legislation and poor performance of administration makes it filthy and hollow system to support and protect the masses. All the cases which were studied in this research had a single and common resentment from the government that none of the robber has been arrested yet. They have lodged the FIRs which are part of the police's file. They frequently go to the courts, but no one has any solution to find the robbers-cum-murderers. People have also concerned that the police personnel and members of the administration have connections with criminals. They are bribed by them and when the robbers plan to commit the felony, they take the police in confidence before crime scene. It serves them as the high-ups forbid their personnel to visit that spot at the specified time or change their duty station to make the ground feasible for the robbers. Along-with the police and levy personnel, the co-victims are of the concern that the judicial system has failed to provide them justice. The cases are running for years, and no decision has been made. Even if the police arrest the culprit, the courts are unable to impose punishment on them and they are easily acquainted leaving the lives of other survivors at threat.

5. Conclusion

While studying the robberies from the victims' and eyewitness perspective, one point is commonly understood and proved that robbery is an act of violence committed from economic gains having intentions and planning. The philosophy of rational choice comes fit this connection that robberies are "the matter of choice". Such phrase is proved correct and valid in the area under study. From the victims' perspective, it is highlighted and assumed that the robbers (criminals) make proper planning having the tendency and capability of "*cost and benefit analysis*". They determine the cost of their action(s) and make prophecy of the benefit(s), which usually earns them what they plan, wish and desire for. In addition, their planning is not only limited to the cost and benefit, rather they also analyze the potential of law enforcement agencies and judicial system. They strictly workout on the capacity of officials in the context of post-robbery procedure. They bribe the personnel or if arrested, they have mechanisms how get out of the judicial inquiries and investigations. Based on these elaborations, this study hypothesizes that criminals are the "*rational beings*" among human-beings. They think, analyze, assess, and plan before committing any act of criminality. The Bentham's philosophy of Utilitarianism comes truly fit in this connection that crime is an act of benefit assumed by the criminals, which earns some good for them. Similarly, the proposition of Beccaria's philosophy that human wish to avoid pain and attain pleasure is also correct. The solution to this issue also lies in classical criminology's classical phrase i.e., "*let the punishment fit the crime*". It shows that the legal system must make the punishment severe, swift, and certain, which will certainly deter the criminals' tendency of "choice, cost and benefit" and answer the question of "*Is crime a matter of choice*" with the answer of "*no, it's not the matter of choice, because such choices aren't healthy, productive and beneficial and may lead to infliction of some permanent and excruciating pain*". Pakistan and especially the Pakhtun society lacks such quality in the penal system, where the phrase is answered as "*yes, crime is the matter of choice, because it requires less efforts and earns more while the system of deterrence is weaker enough to provide sufficient room and space to offenders to go unnoticed, hide and disappear and get easily acquainted if arrested*".

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Authors' Contribution

All the authors have equal contribution in framing and conducting the study. The entire idea, methodological patterns, analysis and proofreading of the manuscript have been duly evaluated by the authors to ensure quality of the product.