

Detention: Effect or Cause of Deviance? An Analysis of the Arguments Provided by Romanian Inmates

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Abstract

The sociology of deviance places great importance on the causes of delinquency. A question always arises: why, in the same context, some people commit crimes and others do not? The first part of the article is based on the analysis of the causal theories of deviance, showing the views of some famous authors such as Cesare Lombroso, Edwin Sutherland, Michel Foucault or Erving Goffman. The second part of the paper presents the results of a sociological survey conducted in a Romanian penitentiary and analyses the prisoners' perspective on the causes that led them to commit those delinquent acts and also their perception of the influence that the detention system has on their personal development and on the risks that incarceration incurs.

Keywords: Detention, deviance, causal theories of deviance, sociological survey, Romania

Introduction

This paper is built around the following question: Can detention be seen as the effect or as the cause of deviance?

Ever since the beginning of the 19th century, the French system of liberty deprivation has been analyzed by a series of researchers who worked for the government or for other institutions. They wanted to find an answer to the question of whether incarceration can or cannot be perceived as a cause of repeated offenses, given the fact that it leads to an "inmate's moral decay" (Beck, 1992: 15).

We will begin our work with a brief theoretical analysis of the causes of deviance, whereas in the second part we will consider them in relation to detention and delinquency, from an empirical point of view, by presenting the results of a sociological survey conducted among the inmates in the Maximum Security Penitentiary in Craiova.

Causal theories of deviance

The sociology of deviance greatly emphasizes deviance causes. Ever since the 1950s there have been determined five main characteristics of delinquency: "constant, male, juvenile, urban and committed by disadvantaged people". Other variables have also been added since then, such as: age, place of residence, occupation, ethnicity, family, social status, etc. (Ogien, 2002: 40).

However, one question still remains: Why is it that, within the same context, some people commit deviant acts and others do not?

Walter Reckless divided the causal theories of deviance into three categories: "biological and constitutional, which identify causes such as biological heredity and mental disorders", "psychogenic, which mention faulty family relationships in early childhood as the main deviant factor" and "sociological theories, which see society and social pressure as the main elements which lead to deviance" (Reckless, 1961: 42).

In his book called "The sociology of deviance", Albert Ogien identifies the following factors as being determinant to deviance: "an individual's lack of adaptation, peer group emulation, reduced authority of control institutions, social inequity" and "reproduction of dominance, resulting from the defense of a certain form of social hierarchy" (Ogien, 2002: 44). The author divides causal deviance theories according to four elements: the individual, the environment, society and the social structure.

Adolphe Quételet (astronomer, mathematician, statistician and sociologist) believes that deviance is only perceived in relation to an average of general behaviour, enabling us to assess how serious deviance is. By using the statistical criteria, the author mentions the fact that it resides in *probability*. Quételet is the author of the concept of "average man". Starting from the statistical data of deviance, the author defined the average man as someone who leads a moderate life, with no excess. Quételet also identified three constant elements which lead to crime, namely: "accidental causation, variable causation and constant causation", the latter being the most influential in deviant acts (Beck, 1992: 16). Causes can however concur. Also, starting from the statistical data in France regarding criminality, the author concluded that the unequally distributed welfare determines the highest levels of criminality, even though his initial thesis was that poverty is a major cause of deviance. (Beck, 1992: 16).

We will now analyze the *causes of deviance in relation to the individual*, the so-called *biological and constitutional theories*.

Cesare Lombroso pointed to biological or organic causes for deviance. The Italian author claims that it is easy to identify a criminal by merely looking at their hereditary physical attributes, which make them an organically abnormal person, "partly pathological, partly atavistic"

(Ellwood, 1912: 717). Following ample anthropological research in Italian penitentiaries, Lombroso was able to identify “primitive“, hereditary features, which are characteristic to most of those who broke the law (for instance: narrow foreheads, excessive body hair, prominent jaws, etc.). A born criminal is an “atavistic abnormality, who sums the physical and psychological characteristics of their long gone ancestors” (Ellwood, 1912: 720) and “even those of wild animals” (Lombroso, 2006: 15). They are “savage people born in the modern world”, “programmed to hurt” (Lombroso, 2006: 15). The well-known Italian criminologist and physician used the results of his research to conclude that most criminals have a propensity towards this type of actions (“criminaloids”) and divided criminals into three distinctive categories: “criminaloids”, occasional criminals and passionate criminals. During the last stage of his life, Lombroso also added social and psychological factors to his own categories, acknowledging the fact that they are causes of crime, although he mostly thought of them as stimulus (Ellwood, 1912: 717) for a born criminal and for a “criminaloid”.

There followed “the theory of the born criminal” (1897), a series of biological explanations of deviance, of other authors, who emphasized elements such as “degeneration”, “epilepsy”, “intellectual defects”, “mental disorders”, each of these factors being identified as “unilateral causes“ of the phenomenon (Glueck, 1956: 92). William Herbert Sheldon is the author of another biology-based theory, “the constitutional theory”, and he created the somatotype (the constitutional type of a person), by quantifying their rate of endomorphy, mesomorphy and ectomorphy (The medical dictionary, 2016), while mentioning the fact that, as a result of his research, people who have a mesomorph structure are more inclined to commit aggressive, violent acts, unlike those who have an endomorph or ectomorph body type (Maddan, Walker and Miller, 2008).

Although nowadays biological theories are rejected by most researchers, modern deviance theories are often based on genetic, hormonal or even metabolic causes (Thompson and Gibbs, 2017: 47). For instance there are certain theories such as the one of the extra Y chromosome, also known as the “Super Male theory“. It offered a pattern of male deviance consisting of an XYY combination, which was said to produce excessive aggressiveness (Rosenberg, Stebbin and Turowetz, 1982 apud. Thompson and Gibbs, 2017). Nutritional causes are also held responsible in sociobiology for deviant behaviour such as the attention deficit disorder and hyperactivity (ADD și ADHD), antisocial behaviour, aggressiveness etc. (Schoenthaler, 1983 apud. Thompson and Gibbs, 2017: 47).

The psychogenic theory, also known as the “character flaw theory” sees an individual’s character as a cause of deviance. Characters develop in

the early years of life, as a result of learning and of family relationships (Reckless, 1961: 42). A sociopathic behaviour, inability or lack of self-control and propensity towards addictions (Terry and Pellens, 1928) can easily lead to deviant acts. There is a series of studies which use this theory in relation to drug users, who often commit other crimes in order to obtain their drugs (Dole and Nyswander, 1980 : 258 in Lettieri, Sayers, and Wallenstein Pearson, 1980).

The Gluecks believed that criminal tendencies are most often determined by the individual's mental characteristics (psychological features), which led them to identify a certain “delinquency potential“ that is more prominent in some individuals and which is a sign of social inadaptation, originating in the early childhood. Eleonor and Sheldon Glueck discovered that this propensity originates in parents incapable of educating their own children properly. The two researchers manage to draw predictive social tables, consisting of seven types of factors: build, intelligence, personality, background and family relationships, leisure activities, school performance and habits (Ogien, 2002: 45-47).

When analysing *the causality of deviance as reported to the environment*, it can be noticed that the followers of the idea of “human ecology”, claim that the environment has a strong influence on human actions. In this perspective there can also be mentioned the theory of cultural transmission as applied to criminal subculture. Thus, the representatives of the Chicago school of thought linked criminal behaviour to the lifestyles of outskirts communities (suburbs, slums). As a result of a research conducted in the residential areas, ghettos and outskirts of Chicago, Robert Park identified a high incidence of criminality, divorces, suicides, in areas with needy communities, such as migrants, facing a state of normative disorientation, anomia and marginalisation (Rădulescu, 1998: 109). Therefore, large groups of immigrants are often regarded as a threat (Porumbescu, 2014: 232). Clifford Shaw and Henry Mac Kay believe that delinquency is acquired, as a result of the living conditions in the place of residence. The first factor is the acquisition of the habits of the place where the respective person was born and raised. The results of the research conducted in 21 American cities on various categories of criminals and in various time spans (between 1900 and 1933) led the researchers to conclude that residence is an accurate indicator of the probability to commit criminal acts, as the authors noticed that the delinquents originated from “ill-reputed“ neighbourhoods. C. Shaw and H. Mac Kay also identified the three factors which are common to those neighbourhoods: poverty, mobility, heterogeneity. To be more specific, the authors believe that a person who is born and raised in an environment where deviance is all-present, is more at risk of choosing such a lifestyle than one who lives in a more peaceful

environment. Therefore you are not born a criminal, rather you become one (Shaw and Mac Kay, 1942 apud. Ogien, 2002: 50-55).

When examining *the causality of deviance as reported to the society*, Ogien explains that, when accounting for deviance, society is often mentioned, in the sense of lack of authority, materialized in the fact that some essential mechanisms of social insertion are considered to be useless. Authority is attributed to family, school, the church, the police, and, most importantly, to justice. Within this context, several factors must be taken into account when assessing the function of authority: education, the practical circumstances of the crime or the legal procedures applicable to the respective delinquent actions (Ogien, 2002: 56-57).

When reporting deviance *to education and social insertion*, there are theories, such as "the theory of socialization in the deviance" or "the theory of cultural transmission", which claim that deviance is an acquired conduct or a mere conformation to the values and rules of certain subcultures (Rădulescu, 1998). Among these socialization theories, there is also the "differential association theory" initiated by Edwin Sutherland, who "started from the idea that any criminal conduct is acquired to the same extent as conventional conduct, and it results from the differential association with criminal norms, values and techniques" (Sutherland, 1939 apud. Rădulescu, 1998: 105). According to Sutherland and Cressey, criminal conduct is acquired by a person by means of their interaction and communication with other individuals among their acquaintances, and association with criminal patterns as opposed to noncriminal ones, is differential, depending on the duration, intensity, frequency and priority of exposure to those criminal patterns (Sutherland and Cressey, 1984 apud. Rădulescu, 1998).

"The theory of cultural transmission" is based on the idea that "any deviant behaviour is a conformation to the rules, traditions and values of various subcultures, which are transmitted from one generation to the next" (Rădulescu, 1998: 107). Subcultures have got their own interests, meanings and perceptions. Such is the case of the Romani population, homosexuals, drug users, inmates etc. The sense of belonging to the respective subculture makes the individual comply with the norms and values of the subculture and therefore commit a series of deviant acts, by adopting a certain lifestyle and attitude (Rădulescu, 1998: 108-109). When applied to the criminal subculture, the theory of cultural transmission leads to the idea of criminal conduct as a form of conformation to the set of values that is specific to marginalized groups, whose members have got a low social status and cultural models who encourage breaking the laws. This leads us to the causality of deviance as reported to the environment, which has already been approached.

While the acquisition of the norms which go against the applicable social standards could account for deviance, there are authors who disagree with this aspect. Irving Piliavin and his fellow researchers conducted a study in 1985, starting from the rationality theory. They applied the principle of calculating utility and used the hypothesis that the acknowledgment of the risk of being punished would be a strong enough reason to prevent the individual from ever committing criminal acts again (Piliavin, Gartner, Thornton and Matsueda, 1985). The results of the research proved the contrary, explaining the fact that the acknowledgment of the legitimacy of the punishment was of very little importance in the decision to commit a crime. Thus, the conclusion is that “instead of considering the acquisition of childhood norms as a permanent proof of conformity, we should rather admit the fact that, while this acquisition does take place, compliance to the norms is an attitude which is highly circumstantial” (Ogien, 2002: 57-60).

From the perspective of the *multiplying temptations*, the research conducted by Piliavin led to the idea that, apart from the individual causes, there are also a set of favoring circumstances, also known as “crime opportunity“: ”empty houses, neighborhoods with no police surveillance, misplaced objects, stopped cars, lack of or limited number of financial controls” (Ogien, 2002: 61). According to Cohen and Felson, crime is perceived as an event which occurs when certain conditions which favor it are met at a given time, in a given place. The authors believe that the most important three elements which favor a crime are: the person who decides to commit the crime, the object of the crime which is located in plain sight, and the lack of surveillance. The variables which the authors use in elaborating the ”routine activity theory” are: exposure, proximity, attraction and surveillance (Cohen and Felson, 1979 apud. Ogien, 2002: 62).

In order to study *the feeling of impunity* as a cause of deviance, Ogien analyses Cusson's perspective defined in 1990, namely that in nowadays society, criminals are more likely to receive no punishment, to escape arrest, to have their case closed, or to avoid paying the fine or serving time even in the presence of a definitive sentence (Cusson, 1990: 109 apud. Ogien, 2002: 65). Thus, the feeling of receiving no punishment, determined by a lax justice (an apparently relaxed way of sanctioning crimes, less rigorous laws, a slow replacement of repression with persuasion), can be seen as a factor which encourages an individual to commit a criminal act.

The social structure has also been identified as a cause of deviance, according to the analysis involving the structure of social classes and some economical aspects, conducted by the very founders of sociology: Karl Marx and Émile Durkheim. Similar studies have also been conducted by William Chambliss (1973), Richard Quinney (1980), Fritzgerald and Zucker (1995), Heckert and Heckert (2004), Tillan (2009) (Spencer, 2015: 225-230). Albert

Ogien explains that the layered structure of society, which includes one ruling class which favors the perpetuation of power, is seen as a source of deviance. However, the social structure is perceived differently, and the author includes other secondary factors within the context: social and economic inequity, dominance and reproduction.

In order to enforce the idea of the *social and economic inequity* as a cause of deviance, Ogien uses a research conducted in 1982 by Juridih and Peter Blau, who tried to measure the importance of social inequity in the occurrence of crime. Thus, the authors notice the importance of both social and economic inequity, while drawing a line between inequity, economic inequity and poverty and claiming that “but for the social and economic inequity the population experiences, and especially the inequity generated by the definitive status conferred by poverty and ethnicity, the prescriptions of social order could be applied” (Ogien, 2002:71-72).

Albert Ogien includes elements such as *dominance and reproduction* as sources of deviance. His analysis is based upon the concept of “social control”. In Durkheim's perspective, adopted by the Anglo-American school of thought, social control is defined as “the action of a set of regulating mechanisms which are specific to any social community, which predictably regulate the relationships among its members” (Ogien, 2002: 74). According to the French school, social control is seen as : “a set of practices used by those in power, which either guarantee hierarchy and social stratification, or perpetuate the conditions of exploitation and alienation by the dominant classes” (Ogien, 2002: 74). In order to present a detailed overview of the causes of deviance in terms of social control, an analysis must be conducted, regarding either the functioning of power directly, or the types of people envisaged by the institutions in charge of social control.

In the analysis of the *social production of deviance*, it is used Marx's theory according to which deviance most frequently occurs in the lower classes of a society, as it originates in the division of the society into antagonistic classes, in inequity, and the state guarantees the hegemony of the ruling class by means of its repressive instruments (the police, justice, medicine, family, the church, etc.) (Ogien, 2002: 83). However, in 1994, Jean de Maillard insisted upon the fact that in contemporary society “budget constraints have led to a limitation of the public intervention in the private sector, to a prioritization of human rights, to a decriminalization of minor crimes and to the development of alternative punitive instruments” (Maillard, 1994 apud. Ogien, 2002: 87). Criminality has now changed to “serious delinquency“, of a financial and economic nature, which is characteristic to the dominant class itself. It can therefore be noticed the fact that, while discussing the social production of deviance, the cause of this phenomenon is no longer of the same nature, with changes ranging from the economic order

of dominance, to the perception of politics and to the administration of public affairs (Ogien, 2002: 87-88). A similar approach is used in “the theory of power“ designed by Alex Thio (2000), who notices the fact that, in today's society, the law favors the powerful and wealthy. Their already existing power leads to greater influence and to less strict social control, they are more highly motivated and they have more frequent opportunities to commit high-level crimes, as opposed to the poor and powerless, who commit unprofitable deviant acts. This could be an explanation for the ever-more-present high-level corruption (Palispis, 2007: 222-223).

In his presentation of the *power of norms* within this context, Ogien chooses to favor the perspective of authors such as: Michel Foucault, Robert Castel or Jacques Denzelot, who advocate for the following theory: ”deviance does not exist outside of the practices of social control which define it and repress it” therefore, ”the abnormality of a conduct is the result of the institutions appointed to treat it, not a blamable attitude which is the effect of accountable and measurable social causes”. In other words, people become deviant when judged according to the criteria imposed by various institutions, which are different for people who break the norms (Ogien, 2002: 82).

In his book “Discipline and Punish. The birth of the prison“, Foucault studied the process of legal rationalization and of the invention of prison, with a strong critical attitude against the penitentiary system.

Michel Foucault defines the phenomenon which generates the change of power technology: the replacement of law by the norm, thus the prison man, who is the ”basic instrument of power, imposed a new type of law: a mixture of legality and nature, prescriptions and constitution, the norm” (Foucault, 1975: 310 apud. Ogien, 2002: 76-77). Foucault sees the entire society undergo a slight process of turning from the law to the norm, thus imposing a new power regime ”based upon the use of rational criteria which account for the progress of objective knowledge in relation to the human being and to their behaviour”. Within this context there appears a new type of institutional surveillance, which ”proves its worth of setting lives straight when they tend to deviate from the institutional order” (Ogien, 2002: 77). M. Foucault uses terms such as a judge-teacher, a judge-doctor, a judge-social worker, ”who impose the rule of the norm, to which they comply in their behaviour and skills” (Foucault, 1975: 311 apud. Ogien, 2002: 76-77). Repression is therefore more present in the norm than in the law. From the author's perspective, deviance results from the application of a strict norm at the level of the society.

In Foucault's opinion, criminal law and penitentiaries are both instruments of power and factors which can be used to enforce social order. ” A criminal is a result of the institution, if we can say that imprisonment

makes the passage from illegalities to delinquency”. In other words, Foucault reverses the way in which these terms were used in traditional doctrine, which used to claim that crime was prior to the institution in charge of the repression thereof.

There have been frequent analyses of the freedom depriving punishment as a cause of delinquency. Erving Goffman conducted a research on the ”delimitation nature” of total institutions, which lead to an almost complete elimination of the ”civilian ego”, to a ”humiliation of the ego” (Goffman, 2005: 24-33) and to the assimilation of the rules and behavioral patterns which are characteristic to penitentiaries (Dobrică, 2010: 375). Goffman refers to the effect of detention, that of ”deculturation”, in other words ”forgetfulness which makes the individual temporary unable to deal with certain characteristics of everyday life outside the institution, if and when they are liberated” (Goffman, 2005: 24). Inside a penitentiary there is “a high degree of conformity, an adaptation to the rules of the penitentiary and an increased difficulty of adapting to the outside society” (Dobrică, 2010 :386). The failure of the penitentiary institution is based on the very paradox on which it is founded : ”it aims at providing the society with people who are ready to live a free life, while depriving them of their liberty” (Dobrică, 2010:386). Furthermore, after noticing the increase of criminality and second-time crimes at the global level over the past two centuries, we can conclude that the idea of reeducating a detained person is an illusion, with frequently contrary effects.

An empirical analysis of the causes of deviance

This chapter includes the analysis of the results of a sociological research conducted during the first half of the year 2015 within the Maximum Security Penitentiary in Craiova. ”The field research it is important because allows the author to introduce in the scientific circuit” new data, validating the theoretical part”(Șerban and Ilie, 2014: 3232).

The sample consisted of 104 people deprived of their liberty, 96 men and 8 women, representing 20% of the total number of inmates. The men-to-women ratio was equivalent to real-life ratio (483 men and 37 women).

Starting from the variable of the defavouring social environment (the place where the respective person was born and raised, poverty, constant moves, relationship with different groups of people, etc), along with the theory of human ecology (Shaw and Mac Kay), we identified the effect variable: a high probability of committing a criminal act.

Our hypothesis is the fact that the social environment is the most important cause of deviance.

Thus, the objective of the research was to identify the inmates' perception of the influence of their social environment upon the committal of the delinquent act.

Table no. 1: Answer to the question: *Why did you break the law?*

Options	Percentage
Social integration in a group whose members committed deviant acts	37.5%
The living environment	9.6%
Social and economic inequity	8.7%
Inborn personality traits	3.8%
Easy earnings at low risk	2.9%
State's abuses and unjust procedures	1.9%
Supernatural causes (bad luck, the devil, God, etc.)	1.9%
I cannot tell	33.7%
Total	100 %

By applying this question, we wanted to test the causal theories of deviance, as presented in the theoretical chapter. Not all options were chosen by the respondents. A percent of 37.5% of the inmates stated that "the social integration in a group whose members committed deviant acts" was the main cause for the committal of their crime. For 9.6% of the respondents, their "environment" was the favoring cause of delinquency, whereas 8.7% chose "economic inequity" as the main reason which led them to commit the deviant acts. A percent of 3.8% of the respondents mentioned the fact that their "inborn personality traits" is the dominant cause for the committal of their crimes, 2.9% mentioned "easy earnings at low risk", 1.9% "state's abuses and unjust procedures" and another 1.9% mentioned a "supernatural cause (bad luck, the devil, God etc.)".

Table no. 2: Answer to the question: What kind of things do you think you learnt from your colleagues, inside the penitentiary?

Options	Percentage
Bad	16.3%
Very bad	1.9%
Good	19.3%
Very good	1.9%
I did not learn anything	60.6%
Total	100 %

When talking about the things they learnt while they were inside the penitentiary, most respondents, 60.6% stated that they "did not learn anything" from their colleagues, 19.3% of them said that they learnt good things, 16.3% of the inmates mentioned that they learned some "bad things" from their colleagues, whereas 1.9% said that they learnt either some very good or some very bad things.

Many of the people who answered the questions said that, while inside, an inmate could learn both good and bad things. The important thing is to be willing to listen and learn.

Conclusion

In relation to the causal theories of deviance, most respondents estimated that the theory of cultural transmission was the most applicable one. The second most applicable one was the theory of "human ecology", which is a merely different presentation of the theory of cultural transmission as applied to the criminal subculture.

In relation to the statement according to which detention is a cause of deviance, it is my opinion that it was confirmed, given the fact that 21.2% of the respondents said that they learnt some either "good" or "very good" things from their colleagues. The idea of learning good things from an inmate is a relative one and it can be easily interpreted in a reversed meaning. This demonstrates that a large number of inmates adhere to the values of the penitentiary subculture and that coexisting with people convicted for criminal acts can have a negative influence.

There is a cause-effect relation between deviance and delinquency with detention, given the fact that, according to criminal law and to criminal procedure law, most crimes are punishable by detention. However, on the other hand, along with the retributive purpose, or serving as an example for other people, liberty deprivation is also aiming at educating the offenders in order to correct their attitude. The purpose of detention thus become one of providing society with "sane, healthy, peace and truth-loving individuals" (Gorescu, 1930: 37-40). Social (re)insertion programs conducted in penitentiaries aim at providing the inmates with the necessary skills and abilities, in order to prevent them from repeating their offenses (Levan, 2004: 290). However, based on the statistical data, it becomes obvious that, after their liberation, most criminals commit offenses again and return behind bars. We can therefore conclude that the educational and social insertion purpose of the punishment is seldom fulfilled. Penitentiaries are more often seen as "a place of contamination, a school of crime" (Vrăbiescu, 1928: 34). And thus, a potential answer to the initial question could be that detention is an effect, as well as a cause of deviance.

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