Theoretical Analysis of Crimes against Humanity in Light of Criminology

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Abstract

Nowadays, almost everybody deals with theorizing. Many of us have special ideas about why and how crimes are being committed. History is replete with general and specific discussions about this subject. Indeed, each theory is an expression of a belief: it is a viewpoint which allows us to better recognize our surrounding world. Since human is a complicated creature, theorizing on delinquency, that is the primary causes of delinquency, is almost difficult. When dealing with crimes against humanity, due to complications and sophistications of the crimes, it becomes much more difficult. This paper aims to study several famous criminological theories that can contribute to rationalize these crimes, introduce a basis for systematic analysis, and understand their etiological components. In this regard, since it should not be expected to achieve impeccable interpretations or find main reasons beyond the commitment of these crimes, they are theoretically analyzed. First, these crimes will be separately studied based on the theory of governmental crime. Then, in another section, some famous and recognized theories, including Anomie, Strain, Preferred Association, Social Learning, Low Self-Control, Rational Choice, Routine Activities, and Deterrence theories which may be of use to the analysis of these crimes, will be introduced. Finally, these theories can interactionally rationalize an important part of the reality of these crimes.

Keywords: Crimes against Humanity, Crime Rationalization, Theory, Criminology.
Introduction

Crimes against humanity have not long been the focus of criminology. If one would calculate the losses incurred by crimes against humanity, compared with ordinary ones, the neglect of this issue turns to be questionable and noteworthy (Harrendorf, 2014, pp. 231-232). In other words, despite the fact that these are more severe than those prevalent crimes which are usually studied by criminologists, they have attracted a slight theoretical or applied attention of criminologists (Maier-Katkin and others, 2009, p 228). Indeed, one may face two important questions: what is the reason beyond the Criminological neglect of crimes against humanity? and how criminological theories can be applied in the analysis of these crimes?

Regarding the first question, many reasons have been proposed for this neglect. The most common arguments against the lack of criminologists' focus on crimes against humanity are based on the principle of legality. In other words, crimes against humanity are often committed in the form of law and under the support of the government, therefore it is not possible to realize a crime in its most accurate legal interpretation. Thus, even though many international crimes, including crimes against humanity, were committed in the twentieth century in the form of violations of international law, but in the strict sense, those who were the main responsible were not persecuted, nor punished by national or international courts. Nevertheless, both etiological criminology and critical criminology determine their fields of study based on the reaction of the criminal justice system. Therefore, a behavior that was not punished or could not be punished was criminologically difficult to be addressed. From this point of view, it is not surprising that after signing the Rome Statute, the number of works in the field of transnational crime rose en masse (Harrendorf, op.cit, pp. 233-234). The neighborhood-oriented approach is another reason for the negligence of crimes against humanity. In other words, criminologists often establish links with certain geographic features which are prevalent in their domain of influence and link themselves with those events which occur in their neighborhood, thus events that occur in remote areas will be considered irrelevant to their own neighborhood-oriented connections and policy (Yacoubian, 2000, p. 14).

As a result, many structural barriers have been preventing criminology from paying attention to crimes against humanity and since the commitment of these crimes has rose greatly; criminologists have to revise their traditional approach. In the last fifteen years, criminology literature and researches in the field of international crimes, including crimes against humanity, suggest this revise.

Regarding the second question, that is how criminological theories can be applied in the analysis of crimes against humanity, there are two approaches: An approach is based on the belief that each theory can separately rationalize a part of the reality of these crimes. The other approach emphasizes on the integration of the theories in analyzing these crimes.
Based on the first approach in the analysis of international crimes, including crimes against humanity and genocide, Pruitt quotes from Branigan and Hardwick about rationalization of the crime of genocide based on “Low Self-Control” theory and writes: “If the general theory of crime is really a general one, then it should be able to rationalize all crimes, including genocide” (Pruitt, 2014, p. 1). Regarding the mere application of criminological theories in analyzing the Genocide, he states: “Criminology does not need to start from scratch, it is only necessary to use a part of its knowledge and then expand it to include genocide. Thus, genocide can be easily analyzed based on patterns that were developed by criminologists years ago” (Ibid, pp. 12-13). Harrendorf also believes that many theories which have already been proposed to rationalize a crime can be used to rationalize a transnational crime. For instance, Social Learning and Rational Choice theories can be applied in rationalizing why international crimes are being committed. There are also many other theories that cover specific aspects of these crimes (Harrendorf, op.cit, p. 248). The other approach emphasizes on the integration of theories. In this regard, Rothe says: “Integration is the most acceptable procedure in theorizing different types of crimes that we strive for” (Rothe, 2009, p. 6). It is believed that his theory is actually an integration of variables, not theories, because in terms of rationalizing variable, some criminologists may argue that focusing on variables, rather than theories, would convert criminology into a “theory firm” (Vold, Bernard, Snipes; 2011, p. 428).

When evaluating these two approaches, in our opinion and according to Hirschi, the integrated theories, compared with the single ones, do not necessarily yield higher interpretative value. He believes that during the process of integration, the merits and values of one single theory will become unspecifiable, vanished or eclipsed. Even if we don’t approve Hirschi’s theory about the risks of integration, we should accept the fact that we can not necessarily merge everything together. The integration of different theories requires serious rethinking to make it possible to adopt certain cases from criminological theories for the rationalization of specific topics (Soothill, Peelo, Taylor; 2009, p. 188). In addition, most theories integrate at least some earlier elements in their dialogue. Therefore, there is no concrete boundary between integrated and other theories (Vold et al., op.cit, 408).

Thus, it seems that the appropriate approach can be explained according to Soothil and colleagues: “In explaining specific issues, some theories are more appropriate than others, but there are many other theoretical approaches that are not necessarily exclusive. We should not necessarily choose one single theory, but rather we can study several ones. Indeed, concepts which were introduced in other approaches can be used in explaining different events. It is exactly what theory integration seeks: that is, using more than one theory” (Soothil et al., p. 186).

Therefore, as the final graph of the first section shows, we also adopt the same approach in a theoretical analysis of crimes against humanity; that is the application of different
individual theories, each of which can rationalize a part of the reality of these crimes and cover specific aspects of it. In this regard, the theory of governmental crime is introduced first, and then several famous and recognized rationalizing theories are discussed.

The Theory of Governmental Crime

Governmental crime is a behavior that is legally considered as criminal and committed by authorities in the line of their duties as representatives of the government (Pruitt, op.cit, p. 3). Also, in another definition, governmental crime is considered as any action done officially or unofficially by the authorities following the explicit or implicit governmental orders which violates the international criminal law (Rothe, op.cit, p. 4). From Chambliss' viewpoint, the main factor of crime commitment is not the individuals or their lower or higher acceptance level of norms and cultural values, but it is the government and its economic and political interests which cast a shadow on the law enforcement (walklate, 2007, p. 51). Accordingly, most researchers believe that the government should be considered as the major criminal factor, since many crimes are unimaginable just outside the context of government. Also, some crimes are the result of government's explicit policy (Pruitt, op.cit, p. 3). For instance, Scabies states: “Lower and Appeals trials of International Criminal Tribunal for the former Yugoslavia (ICTU) concluded that Bosnian Men massacre in Srebrenica was a part of an execution project planned by a governmental or quasi-governmental agency. Although this issue was not raised in The International Criminal Tribunal for Rwanda (ICTR), but all informed observers know that the genocide in Rwanda was a governmental policy, or at least a plan supported by a powerful group within the government (Schabas, 2008, pp. 957-958). In their criminological analysis of genocide in Sudan, Hagan and Raymond-Richmond also provided an evidence of direct Sudanese governmental support for violent murders and rape (Hagan and Raymond-Richmond, 2005, p. 525). In this context, Rothe provides a theory of governmental crime. This theory consists of three components that can be followed by a governmental crime: 1) a government is provoked by economic pressures, political purposes or abnormalities; 2) a situation wherein the government subjugates information, advertising and the armed forces; 3) a situation wherein pressures such as media, public opinion and political pressure are ineffective (Pruitt, op.cit, p. 3). A few examples of committing such crimes are graphically studied according to Rote's theory:

Rothe's Governmental Crime Theory

- Governmental provoke by economic pressures, political purposes or abnormalities
- Governmental leadership of information, advertising and the armed forces
- Ineffectiveness of pressures such as media, public opinion and political pressure

**Rwanda**: Division of power between Hutu and Tutsi

**Sudan**: The competition between Arabs and Africans over land and resources

**ICTRU**: Provoacive advertisements against Tutsis and leading the armed forces

**ICTR**: Leading the Janjaweed militia by the government

At the time of the occurrence of atrocities, this component is observed.
Thus, in the absence of effective social control, when the pressure for achieving the goal intersects the access to the tools and equipment, the governmental crime is likely to be committed. Then in this context, the government can jawbone the criminalizing pressure based on its favorite political, economic or cultural beliefs. When the government calls its political or economic enemy exactly a certain minority group, it can impose its pressure until it is released in the form of massacre or genocide. Here, it can be noticed that the lack of effective social control is a decisive factor (Ibid). Therefore, some atrocities are classified as governmental crimes and are rationalized according this theory.

Famous Theories

Here, several famous criminological theories which can rationalize a part of the reality of these crimes will be studied.

Durkheim's Anomie Theory

Durkheim is one of the nineteenth century theorists who sociologically elaborated the deviation (Sotoudeh, 2010, p. 128). He can be considered as the founder of the theory which claims that criminal behaviors are interconnected with social construct. The first prominent property of Durkheim's thought that it is based on this idea that crime is a normal social phenomenon. This perception made him insist that criminality does not arise from exceptional reasons, but rather stems from social construction. Durkheim's thought is characterized by a secondary fundamental character which is the role of anomie, lawlessness or anomaly and inconsequence in rationalizing the delinquent behavior. He considers anomie as the weakness of social norms; the coercive force that society imposes on its members (Gassin, 1991, pp. 135-136). In other words, he believes that crime is correlated with the lack of social control (Vold et al., earlier, 193). Durkheim believes that rapid social development entails macro-social effects that lead to anomie or abnormalities in the social structure (Rothe, op.cit, p. 14). For instance, such consequences can be easily observed in countries that have undergone a coup or revolution. This anomaly or weakness of norms' role can entail the commitment of crimes (Sotoudeh, 2010, p. 128). In this regard, Pruitt says: “Harf found that after 1945, almost all genocides have occurred during or immediately following a civil war, insurrection or government collapse. Freeman also found that governments that have weakened because of a crisis are likely to face conflicts that could lead to a genocide” (Pruitt, op.cit, p. 12). Thus, in perceptions based on the concept of anomie it is said that a government which is not able to properly and competently govern and control its affairs or cannot handle and overcome the militias in remote areas faces a gap in the structured control over the country which in turn simultaneously provides an incentive and opportunity for...
committing criminal activities. In such circumstances, informal controls including behavioral controls which are applicable in institutions such as family, educational system or religion become obviously weak and this in turn will lead to transfer those values that prescribe and encourage criminality (Rothe, op.cit, p. 14). Accordingly, there are several countries in the world which have such cluttered social and political structures that make them completely unfamiliar with the strategy of powerful governments. This is why Caplan addressed the culture of road warriors in Somalia and the explosion of criminal violence in Côte d'Ivoire and Sierra Leone (Maguire, Morgan, Reiner, 2010, p. 341). Therefore, crimes against humanity and genocide in Iraq and Syria can be clarified according to this theory. Anomie situation in some regions of these countries has paved the way for the emergence of criminal organizations that have committed countless atrocities there. Atrocities committed in Libya after the fall of Gaddafi regime and the following anomalies can accordingly be explained. The collapse of Yugoslav central government was followed by consequent anomie and abnormalities which in conjunction with other causal factors led to numerous historical atrocities in Bosnia and Herzegovina.

**Merton's Strain Theory**

According to Strain Theory, deviant behaviors result from pressures imposed by the society which forces some people to deviate (Sotoudeh, earlier, p. 129). The term strain theory suggests a fundamental issue that Merton's examined: What are the social circumstances which impel some people to break the rules, commit crimes and behave abnormally. Merton believes that this behavior originates from individuals or groups that are expectedly and normally respond to the social situation in which they find themselves. This behavior, in particular, is the product of a gap which has been created between cultural goals of a society and legitimate means available to achieve those goals. Merton's statement that outlaw and delinquent behavior is the product of a difference in achieving the successful goals of the society with legitimate means became a sociological classic interpretation (Melville, Morgan, Norris, Wellington, 2010, pp. 179-180). Indeed, this theory aims to concentrate on a specific issue; that is the intensive strain which results from the inconsistency among cultural goals and opportunities of social structure (Vold et al., earlier, p. 225). According to Rothe, Lord's Resistance Front in Uganda can be considered as a proof (Rothe, op.cit, p. 15). The crimes committed by the Baath party after the fall of Saddam regime are also among numerous relevant instances. Therefore, after the collapse of Saddam government, his advocates who had ruined Iraq for decades were rejected by the society, and since they had not the legitimate means to achieve their own goals, tried to benefit from illegal alternatives such as forming terrorist groups, raping, and rioting.
Sutherland’s Preferred Association

Sutherland’s theory suggest that the criminal behavior is learnt during interactions with other people in a communicational process which involves both the learning of crime commitment techniques that sometimes are very simple and sometimes very complicated, and the special direction of motivations, thrusts, rationalizations, and attitudes. Learning the direction of motivations and thrusts is realized through interpreting the rules as favorable and unfavorable and when favorable interpretations of violations of law overcome its unfavorable interpretations, one becomes delinquent. This is the cornerstone of Preferred Association theory (Najafi Abrandabadi, 2012, p. 54). Thus, Sutherland’s theory consists of two essential elements. First, the content of what is learnt that is the special tricks required for crime commitment, including the appropriate motivations, thrusts, rationalizations, attitudes, and more generally, favorable interpretation of violations of law. The second element is the process through which learning necessitates associating with other people. Sutherland’s description of learning content was originated from Mead’s argument which states that people interact with phenomena based on the meaning they perceive from each phenomenon. In other words, in Mead’s theory, a cognitive factor determines the meanings and behaviors. Sutherland's description of learning process of definitions stems from Mead's theory. Mead had argued that “the meaning of such things is derived from social interaction of the individual with his colleagues”. By following Mead's theory, Sutherland argued that “the meaning of criminal acts mainly stems from meanings that other members of the private groups give to those acts” (Vold et al., earlier, pp. 253-254). In regard with crimes against humanity, it must be said that since most of the time these crimes are committed in the framework of criminal organizations and groups, these groups induce meanings from criminal behavior to people which facilitate conviction and violation of the laws. Constant interactions provide enough time for the transition of criminal value systems, as well as the neutralization for exhibiting such behaviors (Rothe, op.cit, p. 12). For instance, massacres are interpreted as the process of cleaning up the Earth and removing the non-human creatures, so the induction of such a meaning would pave the way for thrusting towards atrocities.
Akers' Social Learning Theory

This theory states that violating behavior is learnt in boosted and distinctive non-social situations and through a social interaction in which the behavior of others is reinforced or distinguished. In other words, learning may be a direct process (for example, through conditioning) or an indirect one (for example, through imitation and modelling). The direct theory of learning emphasizes that learning should be based on behaviors and consequences which are just applied on the learner. While indirect theory suggests that the subject enters the learning process through considering other people's behavior. For example, if some people are rewarded for some of their behaviors, a person who witnesses that situation can learn those admirable behaviors. In this case, the observer is reinforced on behalf of the rewarded people (Williams & McShane, 2014, pp. 314, 377). For those youth offenders who are rewarded (with personal rewards such as drugs and valuable gifts) or brutally punished, this theory can be applied as the process of conditioning and imitation (Rothe, op.cit, p. 12).

Low Self-Control Theory of Gottfredson and Hirschi

In 1990, Michael Gottfredson and Travis Hirschi published a book entitled “A General Theory of Crime” claiming that all types of crime can be rationalized by low self-control and the provision of opportunities. Self-control is considered to be an internal factor to the person
Thus, Quoting Williams, “two key aspects of their approach include the lack of self-control in a person and the opportunities for committing a crime. If the opportunity for committing a crime arises, then one who suffers low self-control will commit it.” Self-control basically refers to the degree of one's vulnerability to the temptation to commit a crime (Melville et al., earlier, p. 190).

Gottfredson and Hirschi argue that inefficient upbringing of the child is the most influential factor in the formation of low self-control. Efficient upbringing which results in high self-control occurs when the behavior of the child is constantly monitored and any deviation is detected and punished. Indeed, external controls on the child’s behavior will eventually become internal through a process called “socialization”. They also argue that after the age of eight, self-control become relatively stable in the individual (Vold et al., earlier, pp. 291-292). Quoting Pruitt, “Hardwick and Branigan in a criminological theorizing on genocide applied the general theory of Gottfredson and Hirschi. They argue that if the general theory of crime is really a general one, then it should be able to rationalize all crimes, including genocide. These authors believe that Gottfredson’s theory of crime (GTC) is something more than a mere low self-control. They claim that it is in fact an integration of low self-control and social situation. The crime is basically the product of the offender (low self-control) and his social situation. Branigan and Hardwick believed that the perpetrators of the genocide suffer lack of self-control” (Pruitt, op.cit, p. 2). Maier and his colleagues criticize this argument and state that in the theory of Gottfredson and Hirschi, low self-control results from improper upbringing in early childhood and then remains stable, while analyses of crimes against humanity suggest that the perpetrators typically have normal level of self-control before and after committing crimes (Maier-Katkin and Others, op.cit, p. 237). In other words, after the massacres, the perpetrators of the genocides and crimes against humanity, with rare exceptions, were simply absorbed in the civil society and easily resumed their normal life (Waller, 2010, p. 21). In response to the criticism that immediate and temporary low self-control arises among groups of people and helps them to commit atrocities, Maier and colleagues, based on the descriptions of Hardwick and Branigan, suggest that this argument while ruling out the principle of stability assumption in self-control theory, never mentions any of the stimuli and raise this questions that why and how immediate and temporary low self-control may occur among groups of people (Maier-Katkin and Others, op.cit, p. 237). But in our opinion, a more appropriate response to this criticism is that the theory of Gottfredson and Hirschi is a combination of low self-control and social situation. So, before or after the occurrence of atrocities, there is no more opportunity to develop low self-control. As Gottfredson and Hirschi argue, “self-control remains constant throughout person's life. It is the transformation in the existing opportunities for different types of criminal and non-criminal behaviors which clarifies the variations of crime” (Vold et al., earlier, p. 392).
Young’s Rational Choice Theory

Rational choice theory is a viewpoint on the issue of crime which stems from what Young calls “administrative criminology” (Walklate, earlier, p. 71). This theory, which is the reviver of those old theories of utilitarianism that return to pre-sociology period, is interwoven with great names, including Adam Smith, Jeremy Bentham, and James Mill. Actually, it suggests the plain story of homo economicus. Homo economicus is one who is always in search of opportunities and grasps all immoral and unsocial choices to maximize his personal profits (Maguire et al., earlier, p. 347). The notion that human beings should be considered as creatures who are function of profit maximization motives is rooted in an old tradition claims that people make their rational decision based on the costs and benefits that different things can bring to them (Walklate, earlier, p. 72). Homo economicus lacks complex motives in his criminal behavior. He is very similar to any of us or maybe better than what we are; like anyone else who can simply be considered an example of us (Maguire et al., earlier, p. 347). Of course, it should not be forgotten that a crime is not committed just because there is a criminal delinquent who is motivated to commit it. Rational choice theory suggests that there should be also an opportunity to commit a crime (Walklate, earlier, p. 74). Regarding this issue, it should be noted that massacres and genocides are full of instances of perpetrators who used specific and excessive situations in order to advance their personal interests in demand for power, property, and assets. During the massacre of Jews, most of them were killed just because they had property and jewelry. The following report of a Rwandan Hutu genocide perpetrator clarifies the fact: “Shalom was an unsuccessful student who was in command of an inspection station when the massacre began. Most of the time he was armed with a gun and grenades which were hung on his belt. Being proud of his military ranking, he was annoying both subordinates and passersby. An eyewitness who knew Shalom from the University testified that Shalom killed a man just in order to steal his bullock” (Waller, op.cit, p. 34).
Cohen's Routine Activities Theory

According to this theory, crime roots in the architecture of everyday life. More precisely, the crime should be found in the spatial convergence of motivated delinquents, suitable targets, and the lack of competent guards (Maguire et al., earlier, p. 349). In other words, delinquents are ordinary people who commit ordinary crimes, and this is a response to the supply of criminal situations wherein they find themselves (Walklate, earlier, p. 75). Regarding crimes against humanity, it should be said that many profiteers can be traced in almost all periods of communal violence and massacres. The target group is usually a wealthy minority that many people by virtue of specific circumstances, disorders, and lack of control will benefit from their elimination. In Rwanda, Interahamwe were poor and unemployed people, while Tutsis were the wealthy target group, so thanks to the strong motivation, attractive targets, lack of barriers and competent security guards, Interahamwe did whatever they want to get freebies (Smeulers, 2014, p. 250).

Reckless' Deterrence Theory

Walter Reckless studied conformity and inconformity as two alternative reactions of the control system which regulates human behavior. He considered social control as a dual line of defense that protects the society against acute deviation. The first protective barrier is the socialization process of each member of the society that includes personal characteristics such as self-control and the internalization of social norms. This protective barrier is called “Internal Deterrence” which enables the individual to resist deflective temptations and comply with the norms. The other defensive line is the group or society to which the
individual belongs. But, this acute deviation is out of human's domain and called “External Deterrence”. External deterrence includes significant series of legal demands and prohibitions which puts many people in behavioral links with their society. When this dual defense line involves a function which sufficiently controls people and protects the society against deflective or anti-social behavior, the deterrence theory is realized (Sotoudeh, earlier, p. 140).

With regard to crimes against humanity, it must be said that Hardwick and Branigan revealed a low self-control among massacres perpetrators (the lack of internal deterrence). On the other hand, the circumstances in most cases, in terms of implicit or active participation of governments and authorities are such that laws and other executive mechanisms, are not able to protect the society against delinquency (the lack of external deterrence).
Deterrence Theory

The lack of internal deterrence
Self-control
Internalization of Norms

The lack of external deterrence
Laws
Competent executives

Crime
Impotent
Government
Potent
Society

Governmental crime

Lack or inefficiency of desirable laws
Deterrence
Strain

The gap between means and objectives

Anarch

Anomie

Attractive targets and lack of competent guards

Individual

Situation and rational evaluation

Routine activities

Rational choice

Situation and rational evaluation

Inappropriate upbringing and situation

Conditioning and imitation

Preferred association

Social learning

Low self-control

Interacting with the opponent group
Conclusion

Although criminology for a relatively long period has not addressed crimes against humanity, as exorbitant violations of international law, but now it has generally a suitable understanding of this kind of crimes. The field of governmental crime deals with criminal behavior of a government when it willingly violates its own laws and commits atrocities. Best known theories of criminology also imply analytical perceptions that can rationalize a part of the reality of these crimes. In particular, these theories are not necessarily exclusive and it is not mandatory to choose only one theory. Concepts and approaches of all theories can be used to clarify these crimes, so that the criminological clarification of crimes against humanity can efficiently contribute to the realization of international criminal justice in consciously dealing with these kinds of crimes as well as achieving an international criminal policy in preventing such crimes.
References