**Chapter 1: The Philosophical and Ideological Underpinnings of Corrections**

**Chapter Outline**

1. Introduction: What is Corrections?
   1. Corrections
      1. Defined
      2. System
      3. Generic term
         1. Variety of functions carried out by government and private agencies
      4. Field of Study
      5. Implication of name
         1. “correct”
         2. “amend”
         3. “put right”
   2. Penology
2. From Arrest to Punishment
   1. The Theoretical Underpinnings of Corrections
      1. Nature v. Nurture Argument
         1. Human nature is socially constructed
            1. “Blank Slate”
            2. Human nature is essentially good
            3. Learned anti-social behavior
         2. Evolutionary biology
            1. Evolved traits

Response to survival and reproductive challenges

High aggressiveness and low empathy

Human nature essentially selfish

* + - 1. The assumptions we hold about human nature strongly influence our ideas
  1. A Short History of Correctional Punishment
     1. Punishment
        1. Legal
     2. Code of Hammurabi
        1. *Lex talionis*
        2. Blood feuds
        3. Revenge
     3. Controlled vengeance
     4. Original sin
        1. Prior to 18th Century
        2. Cruel torture
           1. “Beat the devil out of them”
        3. Barbaric punishment
     5. Enlightenment Period
        1. Late 18th Century
        2. Shift in views of world and place
        3. Narrowing of mental distance between people
           1. Expanding circles of individuals “just like us”
  2. The Emergence of the Classical School
     1. Rose from Enlightenment Period
     2. Cesare Beccaria
        1. *On Crime and Punishment*
           1. Plea to humanize and rationalize law
           2. Make punishments more just
           3. Laws should be designed to preserve public safety and order
           4. Took issue with common practice of secret accusations
           5. Argued for many rights we have written down today:

Confrontation of accusers

Knowing charges against oneself

Speedy, public trials before impartial judges

* + - * 1. Also argued for other rights:

Proportional punishment to harm done

Application of punishment without reference to social statuses

Abolition of death penalty

Swift and certain punishments

Punishments for crimes be written down

We have criminal codes

Discretion of judges severely limited

* + - 1. Influential to number of European countries
         1. Sympathy and empathy

Enlightenment Europe

* + 1. Jeremy Bentham
       1. *Principles of Morals and Legislation*
          1. Principle of utility (Utilitarian Principle)

Greatest happiness for greatest number of people

Legislation should maximize pleasure and minimize pain of the largest number in society

* + - * 1. Human Motivation

Legislators must understand if they are to legislate under the principle of utility

Enlightenment concept of human nature

Hedonistic (**explained below**)

Rational

Endowed with free will

* 1. The Emergence of Positivism: Should Punishment Fit the Offender or the Offense?
     1. Rose from spirit of science
        1. Late 19th Century
        2. Need for empirical science
           1. For which more *positive* conclusions could be drawn
        3. All human actions have causes
           1. Can be found in uniformities
        4. Led to dismissal of classical school notions
        5. Hard form of determinism
        6. Characteristics and circumstances of offender are important
        7. Voluntary v. involuntary actions
           1. Legal responsibility
     2. Raffael Garofalo
        1. Human action often evoked by circumstances beyond human control
           1. Should only consider “peculiarities” or risk factors at sentencing

Individualized sentencing

* + - * 1. Mala in se v. mala prohibita crimes

Extreme criminal

Mala in se crimes

Executions as punishment

Impulsive criminals

Mala prohibita crimes

Transportation to penal colonies

Endemic criminal

Victimless crimes

Legislative changes

* + 1. Franz von Liszt
       1. Customized sentencing based on rehabilitative potential
          1. Based on what scientists find out about causes of crime
  1. Function of Punishment
     1. Form of social control v. Barbaric throwback to pre-civilized times
     2. What if punishment did not exist?
        1. Cheats
        2. Cooperative behavior
     3. Emile Durkheim
        1. Punishment is functional for society
           1. Rituals of punishment reaffirm justness of social norms
           2. Allow citizens to express moral outrage
        2. Tempering punishment with sympathy
           1. Social evolution in punishment perspectives

Retributive to restitutive justice

* 1. Philosophies and Justifications for Punishment
     1. Philosophies
        1. Involves defining concepts of punishment and the values, attitudes, and beliefs in that definition
        2. Identification of four major objectives (justifications/perspectives)
        3. Addition of fifth objective more recently
        4. All theories and systems based on conceptions of basic human nature and ideology
           1. Hedonism

All life goals are desirable only as a means of achieving pleasure or avoiding pain

* + - * 1. Rationality

Assumed to pursue goals with consistent logic

* + - * 1. Hedonistic calculus

Pleasure/pain principle

Combination of hedonism and rationality

* + - * 1. Human agency

Free will

Humans enjoy it

Enables them to purposefully and deliberately choose to follow some calculated course of action

1. Justifications (Correctional Perspectives)
   1. Retribution
      1. Just desserts model
         1. Punishments match the degree of harm inflicted
      2. Taps into primitive punitive urges
      3. California Penal code
      4. Holds offenders responsible and blameworthy
   2. Deterrence
      1. Defined
      2. Two types of deterrence
         1. Specific deterrence
            1. Defined

Individualized

Focused on actual offender

* + - * 1. Recidivism

Defined

Refers only to crimes committed upon release from sanctions

* + - * 1. Contrast effect

Defined

Possible punishment v. usual life experience

* + - 1. General deterrence
         1. Defined

General population

Focused on potential offenders

* + - * 1. Do criminals calculate costs and benefits of crime?

Gary Becker (1997)

Subconsciously at least

Making calculations

Not actual mathematical operations

Subjective and bounded

Reviews

Legal sanctions do have a “substantial deterrent effect”

Deterrent effect

Incapacitation effect

* 1. Incapacitation
     1. Defined
     2. James Q. Wilson (1975)
     3. Possible origination
        1. Enrico Ferri
           1. Concept of social defense (1917)

Purpose of punishment is to defend society from criminal predation

Criminal characteristics prevent basing behavior on rational calculus principles

How can that be deterred?

* + 1. Works while offender is incarcerated
    2. Elliott Currie (1999)
    3. Debates regarding relative costs and benefits to society of incarceration
       1. Edwin Zedlewski (1987)
          1. Economist
  1. Selective incapacitation
     1. Reserving prison for a select group if offenders
        1. Birth Cohort Studies
        2. Saving space for high-rate offenders better protects community and saves it money
           1. Problems with strategy

Dollar costs

* + 1. Issues
       1. Identifying high-rate violent offenders before they become such offenders
  1. Rehabilitation (**discussed further in Chapter 15**)
     1. Defined
     2. Positivist concept
     3. Based on medical model
        1. Formally viewed criminal behavior as a moral sickness
           1. Needs to be treated
        2. Current views of criminality
           1. Faulty thinking
           2. Offenders need programming
     4. Goal is similar to deterrence
        1. Difference is changing offender attitudes, not deter them by threat of future punishment
  2. Reintegration (**discussed further in Chapter 10)**
     1. Goal is to use the time offenders serve to prepare them to reenter into society as well equipped as possible
     2. Not much different from rehabilitation
        1. More pragmatic
           1. Focuses on programs such as job training rather than attitude changing

1. The Due Process and Crime Control Models and Cultural Comparisons
   1. Herbert Packer (1964)
      1. Proposed two “ideal types”
      2. Reflect different value choices that undergird operation of criminal justice system
         1. Crime control model
            1. Emphasizes community protection from criminals
            2. Civil liberties can only have real meaning in a safe well-ordered society
            3. Necessary to suppress criminal activity swiftly, efficiently, and with finality
            4. Cases handled informally and uniformly

Assembly line

* + - * 1. Appeals must be kept to a minimum
        2. Assumption is that process will more efficiently screen out innocent people
      1. Due process model
         1. Obstacle course

Police must respect rights of individuals

* + - * 1. Numerous appeals are allowed
        2. More concerned with integrity of legal process and legal guilt, rather than factual guilt

Factual guilt translates into legal guilt only if evidence used was obtained in procedurally correct fashion

* + 1. These types do not exist in their “pure” form anywhere in world
    2. Models are more about processes followed

1. Summary