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# A 'Suitable Amount' of Crime and a Cultural-Civilisational Approach<sup>\*2</sup>

## 1. Introduction to the notion of 'suitable amount' of crime – when is enough enough?

In the classic view of crime, the criminal offence and criminal offender resemble 'social junk', a societal pathology that can be treated by means of active measures. If crime is really an undesirable by-product of social life, the main rule is simple – the less crime and the fewer criminals there are, the better. There is no such thing as a suitable amount of crime in principle. If, in fact, crime is a social sickness, punishment is the treatment and cannot be conceived of otherwise; hence, all the discussion aroused revolves around knowing what the punishment should be such that it fulfils its role as a remedy.

The paradigm established by Émile Durkheim is in opposition to the approach described above. Through his studies, Durkheim posited, social science should be able to determine whether a given society is 'healthy' or 'pathological', with social reform sought, accordingly, to negate organic breakdown or '**social anomie**'. All behavioural acts (e.g., suicide or criminal offences) performed at the level of the individual arbitrarily (*via* 'free will') are at the level of society social facts *sui generis* characterising the state of the social organism in an indicative manner.<sup>\*3</sup> He believed that a 'social fact is normal for a given social type, viewed at a given phase of its development, when it occurs in the average society of that species, considered at the corresponding phase of its evolution'.<sup>\*4</sup>

Durkheim proposed a novel theoretical view of the precise amount of crime that should be treated as a normal phenomenon at its optimal level. A lower quantity of crime indicates a stage of stagnation in the society, while a higher level accompanies a state of social disorganisation. Durkheim developed a new and totally different view of the criminal too, that 'the criminal no longer appears as an utterly unsociable creature, a sort of parasitic element, a foreign, unassimilable body introduced into the bosom of society. He plays a normal and important role in social life'.<sup>\*5</sup> In response to the accordant change of approach, crime and crime-control issues moved from the periphery to a central position in social science.

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<sup>2</sup> The term 'cultural-civilisational approach' is used for distinguishing from 'cultural criminology', which has its own agenda and followers.

<sup>3</sup> É. Durkheim. *Suicide: A Study in Sociology*. London, New York: Routledge [1897] 2005.

<sup>4</sup> É. Durkheim. Rules for the distinction of the normal from the pathological. – S. Lukes (ed.). *The Rules of Sociological Method*. New York, London: The Free Press [1901] 1982, p. 97. – DOI: [https://doi.org/10.1007/978-1-349-16939-9\\_4](https://doi.org/10.1007/978-1-349-16939-9_4).

<sup>5</sup> *Ibid.*, p. 102.

The idea of the suitable amount of crime has, since then, been directly or indirectly discussed by many criminologists. In critical theory, crime has been treated mainly as not a natural phenomenon but a social construct. The social construction of crime by state power is connected with that apparatus's ambition to impose ever more control over human behaviour. The law and its enforcement follow the interests of certain segments of society and can be used for discipline and for repression of people. The position of Michel Foucault was presented as follows:

This production of delinquency and its investment by the penal apparatus must be taken for what they are: not results acquired once and for all, but tactics that shift according to how closely they reach their target. The split between delinquency and other illegalities, the way in which it is turned back upon them, its colonization by the dominant illegality – these all appear clearly in the way in which the police-prison system functions; yet they have always met with resistance; they have given rise to struggles and provoked reaction.<sup>\*6</sup>

The new generation of sociologists in the 1960s whose works came to be seen as classics later (Howard Becker, Stanley Cohen, Jock Young, and others) were public advocates of the new subcultures then under formation. Their message was that the problem of deviancy was not as serious and dangerous as the general public tended to think: 'Calm down, do not panic, none will be injured. The true problem is not the deviant behaviour, but the general attitude, basing on unrestrained need to moralise.'<sup>\*7</sup> There will be created a state of moral panic by powerful groups – the undesired conduct will be exposed as more dangerous than it actually is. According to Cohen, this moral panic arises when 'a condition, situation, person or group of persons is defined as danger to social values and interests'.<sup>\*8</sup> An abolitionist position with regard to the suitable amount of crime was later proposed by Nils Christie. He stated:

Crime does not exist until the act has passed through some highly specialized meaning creating processes and, in the core case, ended up as occurrences certified by penal law judges as the particular type of unwanted acts called crime. Crime is one, but only one, among the numerous ways of classifying deplorable acts... We cannot abolish the penal institution totally, but the only right direction for crime control policy should be 'penal minimalism'.<sup>\*9</sup>

In essence, the same 'minimalist' view on crime (or its control) has been presented recently by some authors. Crime rates in all leading Western countries have decreased substantially since the beginning of the 1990s, but, irrespective of actual trends in crime, there is every sign that the shift towards punitive justice and a security build-up is continuing unabated, with some arguing that the 'culture of crime control, born of the fears and anxieties of the late twentieth century, could well continue long after its originating conditions have ceased to exist'.<sup>\*10</sup> Some studies indicate that during the 'war on crime', state powers began to engage actively in additional activities. Crime control was used as a power instrument by governments, and various branches of power exercise (executive, legislative, and judicial) were exploiting the crime-control issue for rapid reinforcement of that instrument's legitimacy in their hands. A shift from 'penal welfarism' to 'penal populism' marks movement of crime-control strategies away from evidence-based crime control, with their use as a tool for transformation from 'welfare state' into 'penal state'.<sup>\*11</sup>

The very practical question of how to find a level for crime and for other forms of deviant behaviour that could be taken as a relevant base for adequate control measures is still open. For more than a hundred years, nobody has answered this question better than Durkheim did in his pioneering work. His position was quite clear: crime belongs to every normal social organism. He noted that 'what is normal is simply that criminality exists, provided that for each social type it does not reach or go beyond a certain level'. Empirical establishment of that level (a normal level of crime) is perhaps not impossible; i.e., it may not be impossible to fix it 'in conformity with the previous rules'.<sup>\*12</sup> He hypothesised that every state of civilisation has its own criminality.<sup>\*13</sup>

<sup>6</sup> M. Foucault. *Discipline and Punish: The Birth of the Prison*. New York: Vintage Books [1975] 1995, p. 285.

<sup>7</sup> D. Garland. On the concept of moral panic. – *Crime, Media, Culture: An International Journal* 2008/4, p. 19. – DOI: <https://doi.org/10.1177/1741659007087270>.

<sup>8</sup> S. Cohen. *Folk Devils and Moral Panics: The Creation of the Mods and Rockers*. London: McGibbon and Kee 1972, p. 9.

<sup>9</sup> N. Christie. *A Suitable Amount of Crime*. London, New York: Routledge 2004, pp 7, 85. – DOI: <https://doi.org/10.4324/9780203421086>.

<sup>10</sup> D. Garland. *The Culture of Control: Crime and Social Order in Contemporary Society*. Chicago: University of Chicago Press 2001, pp. 203–204. – DOI: <https://doi.org/10.1093/acprof:oso/9780199258024.001.0001>.

<sup>11</sup> J. Simon. *Governing through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*. New York: Oxford University Press 2007, p. 6.

<sup>12</sup> É. Durkheim (see Note 4), p. 98.

<sup>13</sup> *Ibid.*, p. 107.

It is understandable that in his days there was not enough knowledge about society and deviance to go further in searching for an 'exact level of normal crime'. At that time, the theoretical and methodological foundation for comparative studies between civilisations was rather humble. At the end of the nineteenth century, only Western Judeo-Christian civilisation was accepted as a meaningful one. Western people were deemed to be civilised persons, and all outsiders were still described as savages. During the era of Durkheim's writings, there were no ideas in the social sciences as to how comparative studies of deviant behaviour of 'civilised persons and savages' could be useful. Today, we do not consider only Western forms of collective living and social order possible and acceptable or think that Western values and behavioural principles are the only meaningful ones that might form a basis for sustainable social life, all over the world.

## 2. The basis for a cultural-civilisational approach

But some things never change, or things may change too slowly. The criminological enterprise has long remained on well-trodden paths, and it cannot substantially contribute to understanding of this world in upheaval. Advances in technologies have produced fundamentally novel information, which has been neither systematised nor analysed, for lack of relevant theories. The attempts to compare crime on international scale have continually met with failure because comparative studies of crime have been carried out without a conceptual basis. The bulky records of crime data collected and published by international organisations contain, in undefined relations, the information and noise. The main problem for criminology lies in the absence of new ideas and approaches. As Michael Tonry noted, 'there the matter seems to rest. More recent criminological writing has added no new ideas'.<sup>\*14</sup>

According to David Smidt, there have been two distinct research communities established in criminology, as two camps of criminologists, representing different general viewpoints on the study of crime and crime control. In one camp are those who use the language and methods of science (the so-called positivistic camp), and in the other are those who use the language and methods of the humanities (the 'humanistic camp').<sup>\*15</sup> With a pure positivistic approach, based on empiricism, large masses of data are collected. The weak theoretical base has routinely hindered gaining better new knowledge from said data. Critics argue that positivism's three goals – description, control, and prediction – are incomplete, since the goal of understanding is absent from this list. The situation has been precisely described by Werner Heisenberg:

The positivists have a simple solution: the world must be divided into that which we can see clearly and the rest, which we had better pass over in silence. But can anyone conceive of a more pointless philosophy, seeing that what we can see clearly amounts to next to nothing? If we omitted all that is unclear, we would probably be left completely uninteresting and trivial tautologies.<sup>\*16</sup>

Simmental hindrances are evident in many spheres of Western scientific and intellectual life, and epistemic problems are obvious in criminology too. In figurative terms, progress has become gyration around oneself, with one foot stationary and the second steadily increasing in impetus. There is just an illusion of moving forward, without real development.

Crime as phenomenon belongs to the super-organic world that Karl Popper called world 3<sup>\*17</sup>, of which he said:

I regard world 3 as being essentially the product of the human mind. It is we who create world 3 objects. That these objects have their own inherent or autonomous laws which create unintended and unforeseeable consequences is only an instance (though a very interesting one) of a more general rule, the rule that all our actions have such consequences.<sup>\*18</sup>

<sup>14</sup> M. Tonry. Is cross-national and comparative research on the criminal justice system useful? – *European Journal of Criminology* 2015/12, p. 512. – DOI: <https://doi.org/10.1177/1477370815581699>.

<sup>15</sup> D. Smith. Wider and deeper: The future of criminology in Europe. – *European Journal of Criminology* 2014/11, pp. 6–8. – DOI: <https://doi.org/10.1177/1477370813500885>.

<sup>16</sup> W. Heisenberg. *Physics and Beyond: Encounters and Conversations*. New York: Harper and Row 1971, p. 213.

<sup>17</sup> K. Popper. *Unended Quest: An Intellectual Autobiography*. La Salle, Illinois: Open Court Publishing 1974, pp. 210–218.

<sup>18</sup> *Ibid.*, p. 217.

World 3 has been created by men as plausibly subjective, however inherently the subjective creation has transited into objective reality. For this reason – the crime as phenomenon being both subjective (created by the human mind in the process of human activity) and tied up with the self-propelling sphere of reality – the antinomy has obviously sapped the development of criminology. It has in effect split the crime-research community.

A solution could be negotiated via an approach wherein crime and all relevant phenomena are consistently regarded against the cultural background. In that case, 'culture' would be not just another variable or factor but the determination of the whole context in which the cause–effect relations are actually manifested in action, thereby making it possible to elucidate and understand these relations. Such a mental move could also be defined as a 'cultural turn' for criminology, whereby crime analysis would be underpinned by certain representations of human environment. Marcel Danesi and Paul Perron named man *Homo culturalis*, to denote 'a meaning-seeking species, whose hunger and search for meaning to its existence has led it to invent myths, art, ritual, language, science, and all the other cultural phenomena that guide its search'.<sup>\*19</sup> 'Man is an animal suspended in webs of significance he himself has spun', in the words of Clifford Geertz, proponent of a cultural turn in anthropology.<sup>\*20</sup>

The cultural turn witnessed in many social sciences and fields of the humanities in the 20th century has been considered to be a conceptual shift as fundamental as the 'evolutionary turn' in biology in the 1800s. The evolutionary approach revolutionised and restructured the whole science of biology.<sup>\*21</sup> Unlike many humanitarian sciences having witnessed significant epistemological innovations in recent decades, which have allowed paying more attention to meaningful symbolic dimensions of the human environment, in the domain of crime such a change is still pending. In criminology, the conceptual turn needs be effected – in the form of 'mixing the genres' when researching crime – in an analogue to what was done with flair in anthropology by Geertz. The anthropological interpretation process entails not just describing the things seen but 'thick description' as a special research method. The traditional differentiation, distinguishing, and pigeonholing would be substituted for by mixing and intertwining the genres, because research into crime calls for genuine interdisciplinary enterprise. We need to reach the stage wherein the criminological projects exist as dialogues between individual (research) cultures. Further, the turn would strengthen both positivist criminology and humanist criminology, and criminologists would be able to switch readily between the two viewpoints, with both traditions being on the 'winning side'.

Crime as phenomenon would, in the course of this turn, get a new actual meaning, one quite different from that found in either the positivist or humanist interpretations. As is punishment, crime is socially constructed, which means that 'the legal apparatus and the practices and regulations of punishment define and therefore create at the same time crime and deviance, rather than simply responding to crime as a social fact coming from outside the control systems and conceived independently of them'.<sup>\*22</sup> This should not, however, involve sinking into the mental quagmire of a radical humanistic approach. By accepting crime and crime control as cultural constructs, they are still within reach of empirical research.

Crime and punishment are phenomena whose key implications are understandable only by keeping in view the respective cultural context and through its language and perceptions. Consistent situating of crimes and related wrongdoings as social deviations in the cultural context would be a *magnum* leap forward for criminology as science. Firstly, it would introduce the analysis of penal law and law enforcement in a concrete spatio-temporal context. Paradoxically, the criminal code can be identified as the 'comprehensive root cause of crime', because crimes and rules for differentiating them from non-crimes have been defined in the system of criminal law. Secondly, comparative study of crimes and punishments would represent in the first place an inter-culture 'translation exercise', yielding new knowledge about oneself and the others. Thirdly, an understanding would be established that penal law not only reflects social realities but also constitutes them.

<sup>19</sup> M. Danesi, P. Perron. *Analyzing Cultures: An Introduction and Handbook*. Bloomington and Indianapolis, Indiana: Indiana University Press 1999, p. ix.

<sup>20</sup> C. Geertz. Thick description: Toward an interpretative theory of culture. – *The Interpretation of Cultures: Selected Essays by Clifford Geertz*. New York: Basic Books 1973, p. 5.

<sup>21</sup> A. Kroeber, C. Kluckhohn. *Culture: A Critical Review of Concepts and Definitions*. Cambridge, Massachusetts: Harvard University Press 1952, p. 3.

<sup>22</sup> D. Smith (see Note 15), p. 4.

We believe that different civilisations produce different definitions of acceptable and deviant behaviour. Through law enforcement, the social reality is formed, because controlling crime not only secures public order and safety but creates a certain socio-cultural environment on a day-to-day basis. Therefore, crime control is a crucial issue as seen from the nation-building and political-technology angles, because the criminal justice system is related to cultural self-assertion. What the criminal justice system and its components (e.g., the police, courts, and prisons) in a given state look like and how they function is established by proceeding from dominating conceptions, respected in that society and considered normal and equitable. The unbroken chain of crime and punishment follows a steady process, because they conjointly fulfil a distinctive role, with crime being a phenomenon consisting of acts of free will of men and developing in accordance with fixed rules. Study of the mechanism of such conflicts between legal principles and people's behaviour, whether overt or covert, is extremely instructive, and it reveals to us the very nature of the **social fabric** in a concrete society.

The identification of behaviour as crime and the rules applied in handling of incidents in a corresponding way are in line with historical, social, and cultural conditions. In one country, a wife having deceived her husband is stoned to death, while in another the spouse of a fornicating or adulterous wife is accorded the title 'cuckold'. By reference to such dramatic differences in manners of reaction, diametrically opposite cultural elements of two legal cultures can be inferred, manifested by differences in value ascribed to people of different gender, linked to differences in family patterns, associated with defining of the crimes, linked to divergence of practices of penalising, etc. Moreover, 'faithfulness' and 'faithlessness' carry different implications in different cultural environments. The principles and manner of chastisement nonetheless bear witness to what sort of 'headman' we are dealing with.

This reveals the universality among cultures/civilisations; however, what causes sanctions and who metes out sentences, in which way, is civilisation-specific. A conceptual foundation to such analysis has been laid by classical civilisation studies.<sup>\*23</sup> Over the years, the idea that there are a number of distinct civilisations, all civilised and undergoing specific development, has been elaborated upon further.<sup>\*24</sup> The parameter of creation of civilisedness as social order is treated in that conceptualisation as the capability of creating and preserving certain systemic self-similarity (i.e., in a patterned manner), as fractality in analogy with the capacity of trees to evolve crowns of a shape different from those of other species in nature.<sup>\*25</sup> There is in every civilisation a kind of tonality *sui generis* that is to be found in all the details of collective life, which somehow is never lost. This is why Durkheim's purpose was to find the mental ground determining the various types of civilisation.<sup>\*26</sup> Leo Frobenius named this entity *paideuma* and attempted to create a method for seeing through the debris of a civilisation to its paideumatic structure.<sup>\*27</sup> According to Carl Schmitt, such specificities can be determined also as 'chastity of civilisation', with reference to the quality of being chaste (*Tugend*).<sup>\*28</sup>

In principle, it is possible to characterise a criminal law by proceeding from what extent of crime is preferable and how many members of society one 'wishes' to treat as criminals. The main task of criminology should be to find out how the social fractality of various civilisations manifests itself through crime and crime control. Via a cultural-civilisational approach, a new construct may be added alongside the previously known levels of analysis (criminal offence, criminal offender, and crime)<sup>\*29</sup>: the level of meta-crime. By

<sup>23</sup> É. Durkheim, M. Mauss. Note on the notion of civilization. – *Social Research* [1913] 1971/38, pp. 808–813.

<sup>24</sup> Among other works, S. Huntington. *The Clash of Civilizations and the Remaking of World Order*. New York: Simon and Schuster 1997; S. Eisenstadt. *Comparative Civilizations and Multiple Modernities*. Leiden, Netherlands; Boston: Brill 2003; V. Kavolis. Civilization theory and collective identity in the postmodern-globalized era. *Kultūros barai* 2006/7, pp. 1–14. Published in *Eurozine* at <http://www.eurozine.com/articles/2006-07-24-kavolis-en.html> (most recently accessed on 19 July 2017); J. Arnason. Civilisational analysis: A paradigm in the making. – P. Holton (ed.). *Encyclopedia of Life Support Systems, Developed under the Auspices of the UNESCO*. Oxford: EOLSS Publishers 2007, pp. 1–34.

<sup>25</sup> B. Mandelbrot. *The Fractal Geometry of Nature*. San Francisco: WH Freeman and Co. 1982.

<sup>26</sup> É. Durkheim. Civilisation in general and types of civilisation. – S. Lund (ed.). *The Rules of Sociological Method and Selected Texts on Sociology and Its Method*. New York: Free Press [1902] 2013, pp. 186–187.

<sup>27</sup> L. Frobenius. Early African culture as an indication of present Negro potentialities. – *Annals of the American Academy of Political and Social Science* 1928/140 (November 1928), pp. 153–165. – DOI: <https://doi.org/10.1177/000271622814000121>.

<sup>28</sup> C. Schmitt. *The Nomos der Erde im Völkerrecht des Jus Publicum Europaeum* [*The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*], 5th ed. Berlin: Duncker and Humblot 2011. – DOI: <https://doi.org/10.3790/978-3-428-48983-1>.

<sup>29</sup> J. Pinatel. *Traité de droit penal et de criminologie. Tome 3: Criminologie* [*Criminal Law and Criminology. Volume 3: Criminology*], 2nd ed. Paris: Dalloz 1969.

analysing crime on a meta level, we can reach the meanings, commonly/jointly and severally, to both crime and punishment.

### 3. Three variables via which the 'suitable amount' of crime can be characterised

Nowadays it is obvious that the optimal level of crime cannot be evaluated by considering just one (for instance, Western-type) society in the absence of the necessary background for comparison. Theoretically, the optimal level of crime can be identified only under the presumption that there are societies of distinct types, which differ from one another with regard to tolerance/ intolerance for deviation. Organisms differ in their capacity of resistance and ability to react to stimuli originating from the external environment. Quite similarly, individual societies need, for normal functioning and development, their own levels of crime – i.e., respective numbers of deviants. The empirical indicators of crime should, from a theoretical standpoint, be fairly similar in countries belonging to the same general civilisation, as compared to other civilisations. Simultaneously, when upheavals of social life take place, the optimal level of crime too changes.

The indicators for an optimal level of crime/punishment cannot come merely from statistical data produced by criminal justice systems. Those indicators are too often and too tightly linked to specificities of states and therefore are subjective. The indicators for optimal level should in principle express some more general proportions, describing cultural value-based patterns and images. They should also reflect simultaneously the regulation by state and society ('order') and 'chaos' as results of free will of man. Considering human society as a sophisticated self-organising system, consisting of self-similar patterns (social fractals), one could compare the characteristics of an optimal level of crime with the fractional dimensions known from Mandelbrot's research.<sup>\*30</sup>

The most amazing discovery is that we already know about such variables. They used to be regularly employed by criminologists especially in life-course perspective, but we were not able to recognise them in those specific roles. All such variables represent characteristics of individual-level criminal activity as highlighted through the criminal-career approach<sup>\*31</sup>, where 'criminal career' is defined as the longitudinal sequence of offences committed by an individual offender.<sup>\*32</sup> By generalising from the individual cases, we obtain general criminal career pathways. The criminal-career approach today is not a criminological theory but a framework within which theories can be proposed and tested. In modern criminology, it is a conspicuously represented and developing paradigm. However, it stands aloof, seemingly situated outside the positive and humanist camps or straddling the two.

Criminal career can be treated as a phenomenon that hypothetically reflects both transgression and retribution, a reunion between crime as an act of free will of an individual and punishment as discretionary reaction to the crime by the state. Research into criminal careers in the concrete cultural environment and generalising their pathways and trajectories reveals a detailed picture of the type of social fractality in the given civilisation. Within the context of a cultural-civilisational approach, there are three important empirical findings from research into criminal career pathways. In the first place, they are stable and relatively persistent over time. Secondly, they are total; i.e., they affect the general picture of crime significantly. Thirdly, they have not met with adequate explanation and substantiation in criminology as yet.

<sup>30</sup> B. Mandelbrot (see Note 25), p. 405.

<sup>31</sup> D. Farrington. Developmental and life-course criminology: The 2002 Sutherland Award Address. – *Criminology* 2003/41, pp. 221–256.

<sup>32</sup> D. Nagin, K. Land. Age, criminal careers, and population heterogeneity: Specification and estimation of a nonparametric, mixed Poisson model. – *Criminology* 1993/31, p. 329. – DOI: <https://doi.org/10.1111/j.1745-9125.1993.tb01133.x>; D. Farrington. Human development and criminal careers. – M. Maguire et al. (eds). *The Oxford Handbook of Criminology*. Oxford: Clarendon Press 1997, p. 511; A. Blumstein et al. (eds). *Criminal Careers and 'Career Criminals'* I, II; Report of the National Academy of Sciences Panel on Research on Criminal Careers. Washington, DC: National Academy Press 1986, p. 12.

### 3.1. Gender differences in crime

There is a fixed unambiguous link between criminal activity and gender – males conduct themselves unlawfully significantly more often than females. The most consistently demonstrated finding in all of social science is that men are considerably more likely than women to engage in crime.<sup>\*33</sup> The prevalence rate in the male population is and has always been much higher than that for the female part of the general population. This is true in all countries for which data are available. It is true for all racial and ethnic groups, and for every historical period.<sup>\*34</sup> In the mid-1800s, Adolphe Quetelet had already established that females constituted below 25% of all those arrested.<sup>\*35</sup> Contemporary surveys too indicate that the percentage of females among criminals is consistently within the 10–15% range.

Females are less likely than males to become repeat offenders, and long-term criminal careers are very rare among women. There are some isolated types of crime for which females represent a larger share than men (for instance, prostitution in those countries where prostitution is criminalised). When one differentiates between more serious and less serious or between violent and property crime, the lower criminal activity of females is noticeable especially with regard to more serious and violent crimes, for which women hold steady at approximately 10%.<sup>\*36</sup> In criminal activity, the gender differences are revealed already in the teenage years, with girls' delinquency being less chronic and less serious than boys'.<sup>\*37</sup> The indicators characterising the criminality of females have not changed, and no tendencies have thus far been identified that would suggest value in 'unifying' female and male criminality. The 'gender gap' in crime has been sustained.

To account for the wide and stable gender differences manifested with regard to crime, several hypotheses have been proposed, with themes varying from biological specificities to gender roles contributing to lesser criminal activity of females.<sup>\*38</sup> Nonetheless, the gender differences in general and, especially, the stability of the 10–20% share of females have not been convincingly elaborated upon. Some authors have identified as the greatest flaw of criminology its failure to theorise on the relation between gender and crime.<sup>\*39</sup>

The idea that gender is best understood as socially produced fits well with the cultural-civilisational approach. 'Doing gender' means that this is a mechanism whereby the situated social action contributes to the reproduction of social structure. This is relevant not only with respect to activities that conform to prevailing normative conceptions but also for those activities that deviate. The issue is not deviance or conformity; rather, it is the possible evaluation of action in relation to normative conceptions and the likely consequence of that evaluation for subsequent interaction.<sup>\*40</sup> The performance of gender *via* crime is a response to gendered social hierarchies and expectations but also reproduces them.

We should remember that surveys of specificities of females' crime have been carried out almost exclusively in the Western cultural area, hence not enabling larger-scale comparisons in that respect. We can prognosticate dramatically different manifestation of forms of criminal activity among females in other cultures/civilisations – for instance, the phenomenon of 'black widows' linked to religious suicide terrorists of a type relatively unknown in the Western countries.<sup>\*41</sup> On the basis of existing empirical material, one cannot deduce either the possible gender proportion in crime of other civilisations or by what social-cultural

<sup>33</sup> D. Britton. Feminism in criminology: Ending the outlaw. – *The Annals of the American Academy of Political and Social Science* 2000/571, p. 58. – DOI: <https://doi.org/10.1177/0002716200571001005>.

<sup>34</sup> G. Smith. Long-term trends in female and male involvement in crime. – R. Gartner, B. McCarthy (eds). *The Oxford Handbook of Gender, Sex, and Crime*. New York: Oxford University Press 2014, pp. 139–157. – DOI: <https://doi.org/10.1093/oxfordhob/9780199838707.013.0008>.

<sup>35</sup> A. Quetelet. *A Treatise on Man and the Development of His Faculties*. New York: Cambridge University Press [1842] 2013.

<sup>36</sup> J. Wilson, R. Herrnstein. *Crime and Human Nature*. New York: Simon and Schuster 1985, pp. 105–111.

<sup>37</sup> M. Snyder, M. Sickmund. *Juvenile Offenders and Victims: 2006 National Report*. Washington, DC: Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

<sup>38</sup> F. Heidensohn. Gender and crime. – M. Maguire et al. (eds). *The Oxford Handbook of Criminology*. Oxford: Clarendon Press 1994, p. 998; T. Moffitt et al. *Sex Differences in Antisocial Behavior: Conduct Disorders, Delinquency, and Violence in the Dunedin Longitudinal Study*. New York: Cambridge University Press 2001. – DOI: <https://doi.org/10.1017/cbo9780511490057>.

<sup>39</sup> J. Allen. Men, crime and criminology: Recasting the questions. – *International Journal of the Sociology of Law* 1989/17, pp. 19–39; C. Smart. *Feminism and the Power of Law*. London: Routledge 1989. – DOI: <https://doi.org/10.4324/9780203206164>.

<sup>40</sup> C. West, S. Fenstermaker. Doing difference. – *Gender and Society* 1995/9, p. 21. – DOI: <https://doi.org/10.1177/089124395009001002>.

<sup>41</sup> M. Bloom. *Bombshell: Women and Terrorism*. Philadelphia: University of Pennsylvania Press 2011, pp. 35–67. – DOI: <https://doi.org/10.9783/9780812208108>.

specificities those differences could be accounted for. It is logical that a female's social status and roles in countries of non-Western civilisations affect to what extent and with what crimes women are represented there. There is a great need to identify and explain patterns in crime committed by women in jurisdictions outside Western world.

### 3.2. Age and criminal activity

An important finding of modern criminology points to a strong curvilinear link between age and criminal activity (the 'age-crime curve'). Surveys show that involvement in criminal behaviour increases until late adolescence or the early adult years, after which it steadily decreases for the remainder of life. That relationship between age and criminal activity has been unchanged across geographical areas and between eras. Criminologists have not been able to explain satisfactorily why such a connection between age and crime persists specifically and remains stable. Travis Hirschi and Michael Gottfredson, for instance, have claimed that 'the age change of crime cannot be accounted for by any variable or combination of variables, available to criminology at the present time'.<sup>\*42</sup> Yossi Shavit and Arye Rattner share the opinion that the age dynamics of delinquency remains to be unravelled by use of any whatsoever known sociological variables.<sup>\*43</sup> An attempt has been made to substantiate the age-crime curve by use of a bio-social approach.<sup>\*44</sup>

Age-related prescriptions have different contents between separate cultures and civilisations. Even a seemingly objective category such as age is not culturally universal; it represents a discursive construct that bears a fixed meaning in a certain context. The special treatment of minors under criminal law, which started in the Western world after the 'discovery' of minority (adolescence) in the nineteenth century, is a phenomenon that is highly complicated by its very nature, associated with social-cultural and economic developments.<sup>\*45</sup> The way in which modern Western societies treat their children and minors is in conformity with expectations related to the role and capacity for development of new generations achieved over a long teaching and maturation period. Minority can be seen on one hand as an element aggravating responsibility (for instance, minors are subject to more restrictions than adults are, with several modes of behaviour allowed for adults being prohibited for minors – the 'status offences'). On the other hand, minors are treated and punished less rigorously (the punishments are milder, age limits have been established with regard to administering the harshest sanctions, and punishment under criminal-law procedure is usually avoided).

Does the link between age and crime hold in all world cultures and civilisations? Maureen Cain described, for instance, the society of Trinidad and Tobago, lacking the age stratification characteristic of the Western world. The local population are divided into two groups: children, who usually do not participate in the undertakings of adults, and the rest of the people – the adults. The children become adults without having been teenagers in an interim stage. Socialising of adults takes place in groups of multi-age individuals and in family groups.<sup>\*46</sup> According to Anthony Harriott's data, sales of narcotic drugs in the Caribbean Sea area are carried out primarily by people of advanced age, not the young.<sup>\*47</sup> Farley Braithwaite, when analysing police data on people penalised on Barbados, found that minors of ages 14–19 constituted a little more than 9% of this group, while people older than 25 years of age constituted over 70%<sup>\*48</sup>, although corresponding Western data would seem to show that people in the latter age band should have 'outgrown' criminal activity.

<sup>42</sup> T. Hirschi, M. Gottfredson. Age and the explanation of crime. – *American Journal of Sociology* 1983/89, p. 554. – DOI: <https://doi.org/10.1086/227905>.

<sup>43</sup> Y. Shavit, A. Rattner. Age, crime, and the early life course. – *American Journal of Sociology* 1988/93, p. 1457. – DOI: <https://doi.org/10.1086/228907>.

<sup>44</sup> A. Walsh. Crazy by design: A biosocial approach to the age-crime curve. – A. Walsh, K. Beaver (eds). *Biosocial Criminology: New Directions in Theory and Research*. New York: Routledge 2009, pp. 154–175. – DOI: <https://doi.org/10.4324/9780203929919>.

<sup>45</sup> P. Aries. *Centuries of Childhood: A Social History of Family Life*. New York: Random House, 1962.

<sup>46</sup> M. Cain. Orientalism, Occidentalism and the sociology of crime. – *British Journal of Criminology* 2000/40, p. 244. – DOI: <https://doi.org/10.1093/bjc/40.2.239>.

<sup>47</sup> A. Harriott. The changing social organization of crime and criminals in Jamaica. – *Caribbean Quarterly* 1996 / 42 ('For a Caribbean Criminology'), pp. 61–81. – DOI: <https://doi.org/10.1080/00086495.1996.11671846>.

<sup>48</sup> F. Braithwaite. Some aspects of sentencing in the criminal justice system of Barbados. – *Caribbean Quarterly* 1996 / 42 ('For a Caribbean Criminology'), pp. 113–130. – DOI: <https://doi.org/10.1080/00086495.1996.11671849>.



Hence, there are valid grounds to believe that the link between age and criminal activity is a fundamental characteristic of crime of Western-Christianity-based civilisation, arising from a specific Western *modus vivendi* and the associated cultural background. That indicator expresses comprehensively the specificities of socialisation of new generations into a Western type of society. It is highly possible that results differing from those of the West with regard to the link between age and criminal activity will be obtained in other non-Western civilisations also, should similar surveys be conducted there.

### 3.3. Chronic and occasional offenders

A third significant discovery in life-course criminology is considered to lie in a so-called dual taxonomy according to which the whole (criminal) population can be divided into two distinct groups. Terrie Moffitt established in a longitudinal survey carried out in New Zealand that, while antisocial behaviour is encountered very rarely among those below 11 years of age, by age 18 about 93% of respondents reported participation in some type of delinquency. The bulk of the latter group is constituted by adolescence-limited offenders. A second group is made up of life-course-persistent offenders, whose criminal offences start early and criminal careers last a long time, and who commit most of the serious crime. The share of such individuals among all offending adolescents is approximately 5%.<sup>49</sup> The strong correlation between an early start to offences and later high incidence of crimes can be viewed as one of the most convincingly established patterns.<sup>50</sup> The existence of adolescence-limited and chronic, persistent criminals has been corroborated by results of several other surveys.<sup>51</sup>

Moffitt associates the high criminal activity of teenagers with the so-called maturity gap – i.e., the discrepancy between the biological and social maturity of individuals in contemporary Western societies. In traditional societies, these two processes occur simultaneously; however, in a Western society, a long learning period extends between child and adult. The biologically adult person remains a child in the social meaning for a long time. The high level of criminal activity is linked to striving for autonomy and to challenging the older generation.<sup>52</sup> What does it mean, however, that roughly 5% of all (male) individuals develop into chronic criminals? This indicator has long been discussed, and diverse conclusions have been arrived at. In the opinion of some authors, the group of 'violent predators' are most dangerous and these are the criminals against whom the majority of the resource of the criminal-justice system should be targeted.<sup>53</sup> According to other opinions, that group cannot be prospectively differentiated (it can be done in retrospect only), a fact that renders such knowledge redundant.<sup>54</sup>

When considering the size of such group as stable characteristics, inherent to societies of the Western type, advocates of both positions are in the right. The Western societal organisation on the whole 'causes' such a proportion of individuals to become chronic 'clients' of the criminal-justice system. This is apparently an indicator characterising the Western collective body, with a relatively standard proportion of deviants to law-abiding citizens. Hence, there are no grounds for believing that a global regular pattern is in evidence. Therefore, with reference to the existing data, the percentage of persistent criminals should be viewed as an inherent characteristic of (crime) of **Western-Christian** civilisation.

It is possible to make forecasts on the basis of certain personality traits and social characteristics to address what sorts of individuals have the highest probability of being found among that group. These are

<sup>49</sup> T. Moffitt. Adolescence-limited and life-course-persistent antisocial behavior: A developmental taxonomy. – *Psychological Review* 1993/100, pp. 641–701. – DOI: <https://doi.org/10.1037//0033-295x.100.4.674>.

<sup>50</sup> J. Wilson, R. Herrnstein (see Note 36), p. 137.

<sup>51</sup> M. Wolfgang et al. *Delinquency in a Birth Cohort*. Chicago: University of Chicago Press 1972; D. Farrington. Explaining and preventing crime: The globalization of knowledge – American Society of Criminology 1999 Presidential Address. – *Criminology* 2000/38, pp. 1–24. – DOI: <https://doi.org/10.1111/j.1745-9125.2000.tb00881.x>; B. Lahey, I. Waldman. A developmental model of the propensity to offend during childhood to adolescence. – D. Farrington (ed.). *Integrated Developmental and Life-Course Theories of Offending*. New Brunswick, New Jersey: Transaction 2005, pp. 15–50; T. Thornberry, M. Krohn. *Taking Stock of Delinquency: An Overview of Findings from Contemporary Longitudinal Studies*. New York: Kluwer/Plenum 2005.

<sup>52</sup> T. Moffitt. Natural histories of delinquency. – E. Weitekamp, H.-J. Kerner (eds). *Cross-National Longitudinal Research on Development and Criminal Behavior*. Dordrecht, Germany: Kluwer 1994, pp. 3–61. – DOI: [https://doi.org/10.1007/978-94-011-0864-5\\_1](https://doi.org/10.1007/978-94-011-0864-5_1).

<sup>53</sup> A. Blumstein et al. (see Note 32).

<sup>54</sup> T. Hirschi, M. Gottfredson. *General Theory of Crime*. Stanford, California: Stanford University Press 1990.

the features that we have so far considered predictive of criminal careers – for instance, low self-control capacity in combination with hyperactivity.<sup>55</sup> It would be worthwhile to ponder why such features are connected with persistent criminal careers in the West, as well as reflect on psychopathic personalities, which represent a modern, positivist counterpart to the anti-ideal of the Western man. We should then pose the question of whether such features are similarly negatively appreciated in the process of socialisation in those countries adhering to an Islamic creed. Regrettably, we can only make uneducated guesses with regard to the characteristics of criminal careers in other civilisations.

We can suppose that all three basic characteristics belong to the normal level of crime in Western-Christian civilisations, as Durkheim evidently held as a view fitting his time. These are probably not the only ones stemming from a Western cultural environment and *modus vivendi*. We may only surmise that our hypothesis is true by working from the information we have already within the context of the Western world. Now it needs be contrasted against the respective indicators for non-Western civilisations. Longitudinal surveys focused on trajectories of criminal activity have until now been carried out exclusively in Western countries.<sup>56</sup> But even for countries belonging to a Western, Christian tradition, the international comparative longitudinal studies are found wanting or there are too few of them.<sup>57</sup> This problem must be dealt with, to make the present unsatisfactory situation better: surveys of criminal career pathways across different civilisations must be initiated. This is feasible today, while in Durkheim's age it would have been preposterous to suggest contrasting two societies, one populated by civilised persons and the other teeming with savages.

## 4. Conclusions

The main theoretical and methodological implications of the proposed cultural-civilisational approach to crime are summarised below.

At first, this approach would help criminology to get rid of the Western introspective view of crime. The Western model for societal life is not the only meaningful one, and there are many other civilisations. By conducting scientific research into Western institutions for crime control, their genesis, and their functioning, one cannot create new knowledge for the whole world. In particular, globalisation inherently imposes a need to learn to know other cultures or civilisations and their functioning, so that we may identify the rules and mechanisms of their cultural reproduction. Thence arises the need for surveys of pathways of criminal careers in multiple cultural spaces and civilisations. These are, in fact, indispensable for the civilisations' coexistence. They might form part of a cross-cultural dialogue, providing knowledge for engagement in mutual informing with the Other. The role of criminologists therein cannot be overestimated.

Secondly, although crime is a fact of normal sociology, it does not follow that we should not abhor it. Pain, likewise, has nothing desirable about it: the individual detests it just as society detests crime.. Crime as a mass phenomenon refers to the rate of conflict, the extent of which is determined within the normative framework of the relevant society and by reactions to crime. A new level for analysis, meta-crime, should be added to the earlier ones – the levels of offence, offender, and crime. This analytical level of crime and crime control would amount to analysis of crime of various civilisations not via direct comparison of statistical data but through exposing the social mechanisms as root causes that contribute to one or another real-world practice of crime and punishment. Through such consideration, the attention would be focussed not on crime itself but on a broader complex of social relations, through which certain actions and people are criminalised while others are not.

Thirdly, the criminal-career approach as a frame would form grounds for the new model in criminology. The humanistic and positivistic camps would be reconciled, and the linkages between criminology

<sup>55</sup> T. Moffitt, A. Caspi. Childhood predictors differentiate life-course-persistent and adolescence-limited antisocial pathways among males and females. – *Development and Psychopathology* 2001/13, pp. 355–375. – DOI: <https://doi.org/10.1017/s0954579401002097>.

<sup>56</sup> D. Farrington (see Note 31), pp. 221–256.

<sup>57</sup> Conspicuously outstanding as a singular achievement is the Estonian longitudinal survey that commenced when Estonia was incorporated into the USSR, to remain isolated from the Western cultural space for the following half a century. That survey was not, however, aimed at comparing the characteristics of trans-civilisation pathways of criminal careers. See J. Saar, A. Markina. Mortality rate and causes of death of delinquent individuals: Data from the Estonian Longitudinal Study of Criminal Careers. – *Juridica International* (Law Review of the University of Tartu) 2012/19, pp. 179–186.

and the world of action would be more varied and extensive. This is a manifestation of enlivened interest in the practical aspect of criminal behaviour, arising from better understanding of cultural 'construction' and awareness of inevitable restrictions imposed on activities of man. Real mechanisms of social life cannot always be explained by those who participate in it, because profound causes are able to escape their consciousness.

Fourthly, the cultural-civilisational approach in criminology does not mean moving away from an empirical approach and toward the 'soft', humanitarian tradition of social science. Just the opposite, this is an alternative to the postmodernist endless deconstruction and relativism. The method of science is to begin with questions, not with answers, least of all with value judgements. Science is dispassionate enquiry and therefore cannot accept outright any ideologies 'already formulated in everyday life', since these are themselves inevitably tradition-bound and normally tinged with emotional prejudice. Sweeping all-or-none, black-and-white judgements are characteristic of categorical attitudes and have no place in science, whose very nature is inferential and judicious.

The meta level of crime would allow comparing civilisations through certain characteristics and highlighting how the cultural differences find an outlet in crimes. Such a position is not a 'view from nowhere'<sup>58</sup>: it amounts to comparing and contrasting in a rational way the indicators that are really and truly comparable. It is only then that the statistical data on crime become truly meaningful and we can differentiate the important things from the unimportant ones. Quetelet's famous comment that '[w]e might even predict annually how many individuals will stain their hands with the blood of their fellow-men, how many will be forgers, how many will deal in poison, pretty nearly in the same way as we may foretell annual births and deaths'<sup>59</sup> gets an additional connotation here. We will be able to analyse crime on points of fact and from the substance of the case in various cultures/civilisations when we have learnt well the local values and principles of functioning in the relevant society.

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<sup>58</sup> T. Nagel. *The View from Nowhere*. New York: Oxford University Press 1986.

<sup>59</sup> A. Quetelet (see Note 35), p. 6.