
DEVELOPMENT OF CRIMINAL PSYCHOLOGY AND THE INFLUENCING FACTORS OF CONTEMPORARY CRIMINAL LAW

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Abstract

During the hearing of criminal case, the psychology of the criminal has a certain impact on the use of criminal law. With the aim to make contemporary criminal law fair and efficient in case discrimination, this paper analyzes the development of the concept of criminal psychology, and looks for the influencing factors of the contemporary criminal law. The results show that the evolution of criminal psychology is reflected in development of common law in both continental law system and Anglo-American law system, especially in the latter system; In Anglo-American law system, the concept of criminal psychology ensures the consistency between subjective and objective conditions; the criminal law can be modified according to the criminal psychology to ensure the fairness and efficiency of criminal cases. The research results highlight the significance of criminal psychology to the fair trial of criminal cases.

Key words: Criminal Psychology, Anglo-American Law System, Continental Law System, Criminal Law.

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INTRODUCTION

With the continuous development of social systems in various countries, the constant change of social security, and the increase of scientific and technological elements and intelligence of criminals when committing crimes, case investigators will encounter more difficulties in the process of case investigation, and it is more and more difficult to obtain material information. More and more experts analyze the criminal psychology of criminals, and they hope to determine the personality characteristics of criminals as much as possible by studying the personality changes of criminals and comparing the psychology of criminals and non-criminals. In general, a person's personality includes character, mood, attitude, interest, and personal appearance, etc. To change this

personality, it requires more detailed, complex and long-term work, so the study of the criminal's personality is also a relatively long work. In different stages of people, no matter teenagers, college students or adults in society, there will be certain psychological defects for some reasons, which will lead to some people's criminal psychology. These criminal psychologies are often caused by people's environment rather than individuals, so various theories of the formation of criminal social defects have been put forward. Of course, in some criminal cases, some confessions of the perpetrators will also be analyzed, so as to get his criminal motivation and psychology, thus providing a certain basis for the detection of the case. Although the spread of criminal psychology in our country is much later than that in some European and American countries, there has been discussion on criminal thoughts in our history for a long time, which is much earlier than that of Europe. Its content is much richer, but it has not formed an independent discipline.

With the continuous transformation of

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society, the legislative form, legislative concept, and legislative scope of the country are constantly being revised. Since the promulgation and implementation of China's criminal law in 1997, after decades of continuous exploration, it is generally believed that the legislation of criminal law can't be confined to the formal modesty of the criminal law, and the legislation should not be timid and inefficient when the effective intervention of criminal law is needed. In the Anglo-American law system, the American criminal law theory pays more attention to its practicability and procedural nature in the process of case hearing. Especially, judges have certain initiative and can flexibly apply the common law and criminal law to ensure the efficiency of case hearing. In the process of development for so many years, it will also be revised because of some special cases, so as to ensure the fairness and impartiality of criminal cases.

The development of society and the case itself will have an impact on the criminal law, and in the actual hearing process of criminal case, the various psychology of the perpetrator has a certain impact on the use of criminal law. In this research, the development of the concept of criminal psychology is analyzed, so as to find the factors affecting the contemporary criminal law, which is of certain significance to the future development and research of both the continental law system and the Anglo-American law system.

LITERATURE REVIEW

With the in-depth study of criminal psychology by many scholars, the analysis of criminal psychology has become an important tool to find clues in many criminal cases. Motz, (2016) clarified the role of criminal psychological analysis. The results showed that in practice, full attention should be paid to the role of criminal psychological analysis in criminal psychological testing, so as to provide good technical support for the detection of cases. Howe (1988) adopted the factor analysis method to analyze the subjective psychology of crime in the research. The results show that the factor analysis method can better explain the complex fault and provide new thinking for solving the difficult problems in criminal law. Malcai & Levine-Schnur (2017) studied the impact of the frustration-attack theory on criminal psychology. The results show

that it was feasible to analyze the psychological factors of extreme violent crimes in China with the frustration-attack theory, and psychological counseling for those high-risk groups can prevent psychological crimes. Mullins (2009) pointed out in the article that criminal psychological portrait had gradually developed into an important method for investigation departments and analyzed the future trend of western criminal psychological portrait. The results showed that the current western academic and practical research on the criminal psychological portrait was more focused on the theoretical aspect, and there was still a lack of empirical research. Moreover, professional criminal psychological portrait artists had insufficient professional ability, so they analyzed the trait theory in the specific analysis process, which would gradually become standard in the future development. In the later stage, more attention would be paid to empirical studies, especially further analysis based on specific situations.

At the same time, with the changes of society, the criminal law is constantly improving to better adapt to the contemporary social conditions. Leonard (2003) analyzed the formation of contemporary criminal law, especially a series of factors affecting the formation of criminal law, such as economy and culture. The results showed that in religious culture, Christianity, as an important component of western society, played a very important role in the basic principles and related systems of criminal law, and there were many Christian genes in contemporary criminal law. Zhao (2014) analyzed the preventive legislation in crime and punishment. The research results show that social changes affected the basic laws of crime patterns to some extent, and jointly promoted social governance with other penology. Schmidt & Mann (2018) studied the historical development of the concept of Chinese criminal law and found out some problems existing in the changing process of the concept of Chinese criminal law. The research results showed that the development of traditional concepts of criminal law and the implementation of these concepts had become an important condition for the in-depth study of Chinese criminal law concepts.

To sum up, previous studies focused more on the study of criminal psychology, or factors affecting the criminal law, and rarely linked the

development of the concept of criminal psychology with the criminal law. In this study, the development process of concept of criminal psychology is analyzed, and the factors affecting the contemporary criminal law were found out, so as to promote the development of criminal law.

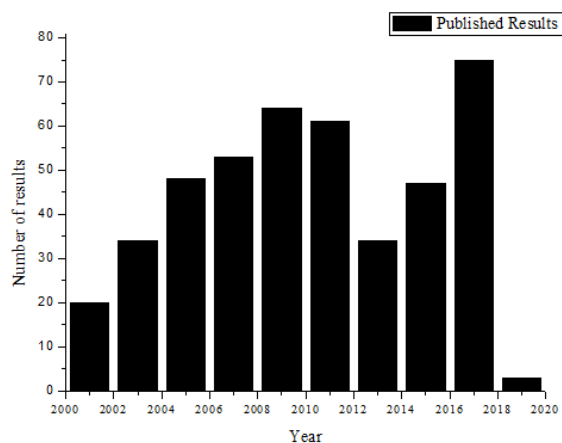
THE INFLUENCE OF THE CONCEPT OF CRIMINAL PSYCHOLOGY ON CONTEMPORARY CRIMINAL LAW

Criminal psychology

Criminal psychology refers to the sum of all kinds of psychological factors, including the actor's cognition, emotion, will, need, motivation, interest, habit, personality tendency, and personality psychological characteristics, etc. In general, criminal psychology has three meanings. First, criminal psychology and criminal behavior are inseparable; Second, criminal psychology and general psychology are related and different; Third, criminal psychology is an open dynamic system, not a static one.

According to the statistics of the research results on criminal psychology through the CNKI, data in Figure 1 can be obtained.

Figure 1. Number of research results related to criminal psychology



It can be observed that among the data of research results up to March 2019, the research results on criminal psychology in 2017 are relatively more. Through the research of relevant professional psychologists, it is found that there are mainly the following symptoms, such as the change of personality psychological

quality, mental depression, fear of victory, arrogance, domineering, and luxury. Among them, individual psychological quality determinesthe tendency, selectivity, and enthusiasm of attitude and activity of person. The more prominent the bad personality psychological character, the more likely to produce extreme egoistic behavior. When the symptom of mental depression occurs, it means that the perpetrator has been suffering from mental oppression for a long time before committing the crime, which makes the perpetrator have a certain pathological mentality. For example, the perpetrator of victory phobia is nervous because he or she is afraid of losing power. Or when criminals can exploit their rights to gain some advantage, they may become even more complacent and domineering (Fortune & Heffernan, 2019). For those who have a serious need for power, money, and sex, they become more insatiable, which leads to more serious consequences.

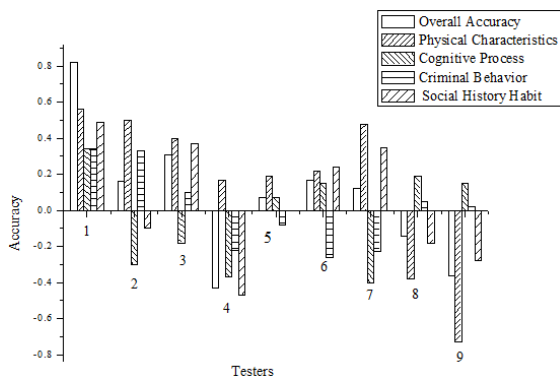
According to relevant data, the criminal psychology of teenagers is relatively serious. They are in a critical period of physical and mental development and are more susceptible to the influence of the environment, which leads them to pay more attention to the spiritual or material things, and thus develop a criminal mentality.

Criminal psychology also has behavioral factors, which refers to their bad behaviors. This kind of behavior usually happens under the control of bad psychology. If this kind of behavior succeeds, it will feed back to the psychology and make them think it is feasible, thus leading to the vicious cycle of criminal psychology. According to the ideas of some psychological experts, wrong activities, bad behavior patterns, harmful behavior habits, as well as the imitation and learning of some bad patterns, all have a certain relationship with the formation of criminal psychology, which shows that behavior and psychology are mutually influencing (Maurya & Agarwal, 2018).

At the same time, criminal psychology is now also used in crime prevention, through the former criminal psychology to judge, and with the help of criminal psychology portrait to predict, so as to prevent crime. The criminals' judgments are judged, and criminal mental portraits are used to prevent crime. Moreover, since the criminal process is the result of the interaction between the criminal and the victim,

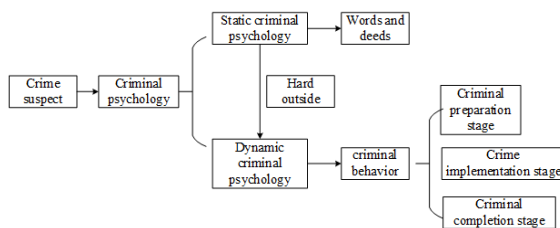
both physical and linguistic interactions require the participation of both parties. It is necessary to analyze from the perspective of the perpetrator, and stand on the opposite side of the perpetrator, that is, take precautions from the perspective of the victim, so as to help the victim quickly determine the perpetrator or a certain type, and effectively prevent crime. According to relevant literature data, the accuracy of criminal psychological portrait in the application process can be obtained, as shown in Figure 2.

Figure 2. Accuracy measurement results of criminal mental portraits



Note 1: Portrait teacher; 2: Psychologist; 3: Science student; 4: Professional detective; 5: Ordinary police; 6: New police; 7: Ordinary person; 8: Psychic; 9: Control group.

Figure 3. Changes of criminal psychology in the process of crime



The closer the data in the Figure above to 1, the higher the accuracy of this test. Meanwhile, the criminal psychological traces of the suspect are analyzed, as shown in Figure 3.

From the above analysis, it can be observed that the criminal psychology is corresponding to the criminal stage, which better explains the criminal psychology of the suspect in each crime stage.

Criminal law

Criminal law is a law that criminalizes, divides and punishes some criminal acts. It has a broad and narrow sense. The criminal law in the broad sense is the general term for all criminal legal norms, and the narrow criminal law refers to the criminal code. Usually, there are general criminal law and special criminal law. China's criminal law was revised again on November 4, 2017. This is also the tenth criminal law amendment passed after 1997.

Legal system is a common subject in western jurisprudence. It is generally believed that if there are some similarities in content or form, a faction of law will be formed. Many works divide the law system into British law system, continental law system, China's law system, Indian law system and Islamic law system. However, after a long period of evolution, it is concluded that the law system is mainly divided into continental law system and Anglo-American law system. Among them, the civil law system can also be called the Roman law system, the legal code system, the Roman - German law system, and it is a general term for laws developed on the basis of Roman law. The continental law system originated in continental Europe, with Roman law as its historical source, civil law as its model, and codified statute law as its main form. The countries and regions that belong to the continental law system include Italy, Spain and other continental European countries in addition to France and Germany. It also includes countries and regions that were once colonies of France, Spain, the Netherlands and Portugal, such as Algeria, Ethiopia and some countries in Central America. Old China during the Kuomintang period also belonged to this law system (Crane, Brewer, Feldman et al., 2017; April & Weinstock, 2018).

Anglo-American law system, also known as common law system and English law system, is the general term of the law developed on the basis of English law since the middle ages, especially its common law. In addition to the United Kingdom (excluding Scotland) and the United States (excluding Louisiana), the Anglo-American law system was mainly applicable in countries and regions that were colonies and dependencies of the United Kingdom, such as India, Pakistan, Singapore, Myanmar, Canada (except Quebec), Australia, New Zealand, Malaysia and so on. Hong Kong in China also belongs to the Anglo-American law system. The

main differences between the two legal systems are shown in Table 1.

The data in Figure 4 and Figure 5 are obtained through searching and sorting out relevant researches on criminal law.

Figure 4. Number of research results related to contemporary criminal law

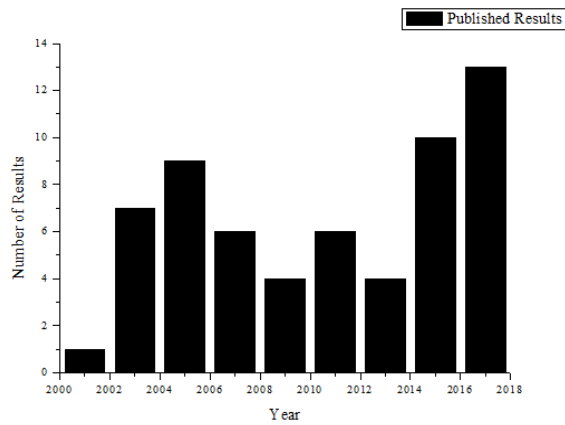


Figure 5 Statistics of criminal law papers published in 16 CLSCI supplements from 2009 to 2016.

Among them, the data from 2003 to 2016 does not include "Politics and Law". It can be found from the data in Figure 4 and Figure 5 that after the revision of the criminal law in 2017, there have been more studies on the relevant researches of the criminal law in China. At the same time, statistics are made on some typical crimes abroad, and relevant data on crimes committed by Indian upper house members are obtained, as shown in Figure 6.

Figure 5. Number of research results related to contemporary criminal law

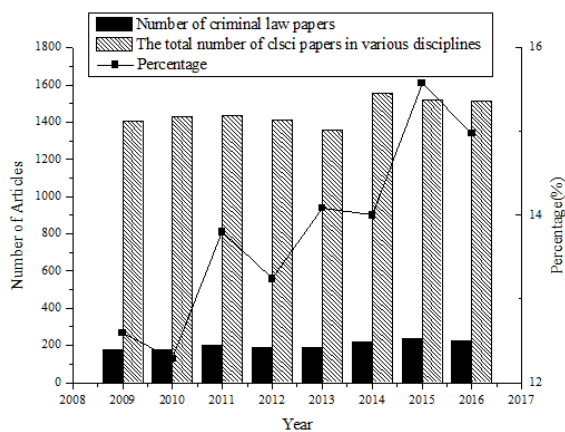


Figure 6. Statistics of criminal background of Raja Sabha members

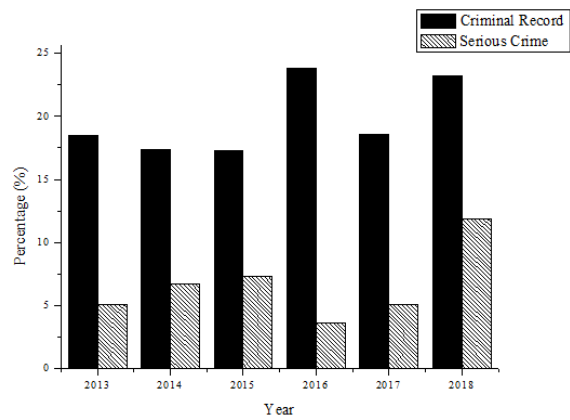


Figure 7. Overview of number of national crimes in 2012-2016

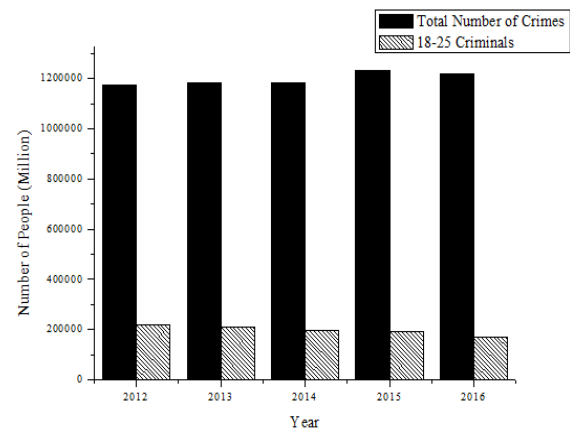


Figure 8. Statistical results of juvenile criminal law crimes

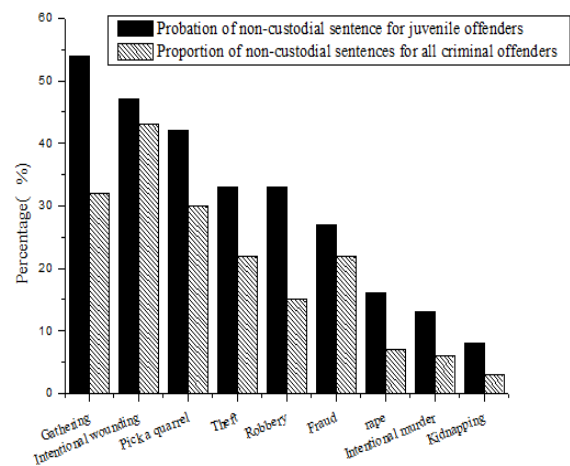


Table 1. Differences between civil law system and Anglo-American legal system

Differences	Anglo-American legal system	Civil law system
Legal structure	Common law A universally applicable law that has been gradually formed through the jurisprudence of the Royal Court.	Public law Laws related to the state, including the constitution, criminal law, procedural law, and public international law.
Country situation	Balance method The kind of case law that regards the principle of fairness and justice as the case judgment basis.	Private law Laws related to individuals including the civil law and commercial law.
Reasoning form and method	The "common law system" is a country that emphasizes individual freedom. Inductive logic for reasoning, distinguishing techniques.	The country of "the civil law system" is governed by the state authority. Deductive reasoning, law and facts are linked to obtain the inevitable result.
Internal contradiction	The United States attaches more importance to statutory law than Britain and has a uniform commercial code, which has an important influence on regulating the behavior of companies.	It advocates codification of codes, but the system of compilation varies from different countries.
Litigation and judgment procedures	If there is unexpected evidence, neither party can easily ask for an adjournment.	When one party presents an unexpected opinion or evidence in court, the other party may find evidence to refute it before the next court hearing in sufficient circumstances.

In addition, data statistics are also conducted on the criminal law crimes in China. The general situation of the number of criminal law crimes in China is shown in Figure 7, among which the criminal law crime data of juveniles is shown in Figure 8.

As can be observed from Figure 8, the number of crimes committed in China is increasing year by year, but the number of crimes committed by people aged 18-25 is decreasing. It can also be found from the data in Figure 7 that crowd disturbances and intentional wounding account for a high proportion, which is also the key part to be considered in the prevention process (Green & Yoon, 2017).

The reason why criminal law crimes are widely concerned is that they will seriously harm the society and cause serious losses and injuries to others and the society. It is necessary to rely on the law to impose certain punishments on them, so that they can realize the seriousness of such criminal acts.

The development of the concept of criminal psychology

Criminal psychology sprouted such thoughts in ancient times. At that time, it paid more attention to analyzing the causes of criminal psychology from the perspective of the relationship between economy, humanity, environment, education, and crime. In ancient China, Guan Zhong, Confucius and Wang Chong and Jin Fuxuan of the Eastern Han Dynasty (25-220) all expressed their thoughts on criminal psychology through words. Later, with the

development of society, the Laws of Alfred became the most typical feudal law in English legal history. Especially when "deliberate" is included in relevant laws, it foreshadows criminal psychology, which is considered by many scholars as the germ of criminal psychology.

Later, with the continuous reform of the holy see, religious doctrine is added to the law, and on this basis, relevant laws are formulated to regulate religious practices. At this time, it has a certain impact on the transformation of the basic concept of criminal law. This crime is not only reflected in the violence behavior between the perpetrator and the victim, but also a process of eliminating subjective evil. Relevant information shows that the original sin thought of Christianity is the origin of the development of criminal psychology. The sinful soul of the bible became the initial state of the modern criminal mind. Augustine and Brockton used criminal psychology to summarize moral evil and conscious harm, and finally Brockton established a number of new criminal trial standards. The establishment of these modern criminal law standards plays a very important role in the reform of the legal system. The use of the bible to admonish sinners in religious law also indicates that criminal psychology has a certain place in the Anglo-American law system (Kleineke, 2017).

In the sixteenth century, the church's influence was growing. Especially in Europe, many secular courts also learn to absorb the relevant provisions of the Church Law, and the

crime is also considered to be a double violation of God and the King. At this time, the royal courts of justice set up special courts to conduct trials, and eventually religious law is secularized. Of course, in some cases, "wantonly", "malicious", "deceptive" and so on are used to describe the behavior of the perpetrator when the case is determined. These words are relatively subjective, so they are associated with the criminal psychology of the perpetrator. Later, in order to facilitate the subsequent trial of criminal cases, these words are put into one category, namely criminal psychology. At this time, the status of criminal psychology in the criminal law has been established, which also provides certain judgment basis for the trial work of criminal cases in ordinary courts. In this process, due to the difference between the concept of criminal psychology at that time and the concept of criminal psychology in the current Anglo-American law system, there would be some deviation in the process of trial and judgment of the case, leading to the judge to take the criminal motive generated by criminal psychology as the only basis in the trial. In the 18th century, the chancellor of the English court of justice, Cork, proposed that criminal responsibility should be determined by the criminal psychology based on facts. After a long period of exploration, the theory of criminal psychology is finally incorporated into the British criminal law system, and it also explains the important role of criminal psychology in crime (Loddo, 2017).

The influence of the concept of criminal psychology on contemporary criminal law

In Anglo-American law system, the establishment of criminal psychology promotes the unification of subjectivity and objectivity in criminal cases. In actual cases, it is generally believed that the traditional character of criminal psychology in common law will have certain influence on the identification of crime. In addition, in English common law, criminal psychology has not been codified, so in many cases, the trial of major cases is decided by judges, which reflects a major flaw in the implementation of English common law. Relevant representatives of Anglo-American law system proposed to codify criminal psychology, so as to have a unified standard for judging criminal activities, make the trial of cases more objective, and lay a certain foundation for the

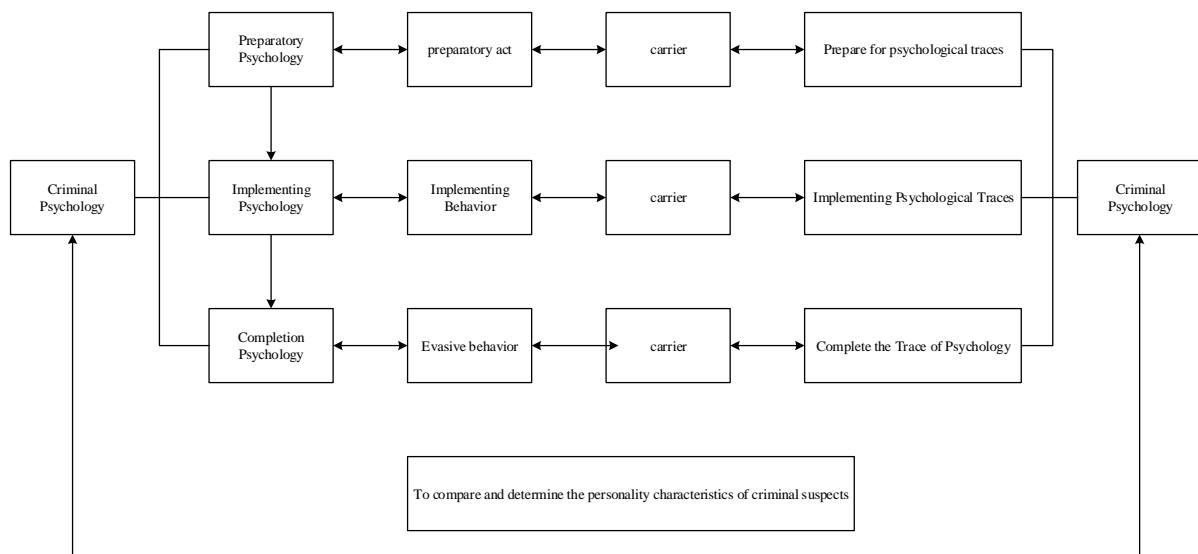
future development of the judicial system (Fagan & Khan, 2019).

Although criminal psychology has been clearly defined in Anglo-American law system, how to reasonably use these forms to determine the case is still a difficult problem. So how to make the judge reasonably apply the criminal psychology of the criminal personnel and keep the judge's discretion becomes the key work of the case hearing. However, in the specific trial, the criminal psychology should not be over-interpreted or extended, and the inference should be based on the ordinary understanding. If the criminal psychology can be inferred more accurately from other evidence, it is necessary to maintain a certain subjective and objective consistency, so as to ensure the accuracy of the case. In the Anglo-American law system, different from the American law, the British common law can't distinguish the psychological situation in morality and crime, which leads to the intentional transformation and criminal psychological transformation.

Some experts in American law also believe that there needs to be a symmetric representation of criminal psychology and criminal behaviors, that is, they should occur at the same time and in the same time and space. In the process of trial, there should also be clear evidence to show that the criminal act is caused by the criminal psychology, including the circumstances when the criminal act occurred, rather than just the evil of human. The provisions in the Anglo-American law system pay more attention to the basic rights of criminals, so in the actual practice, the identification of the psychological situation of criminals will reflect its leniency, so as to protect the basic rights of criminal suspects (Li & Tu, 2018).

In contemporary times, the continuous improvement of criminal psychology has also brought some influences to the Anglo-American laws. They adhere to the principle of unity of subjectivity and objectivity, and effectively combine with the criminal law of the state on the basis of in-depth analysis of criminal psychology, so as to enhance the operability of the criminal law. In addition, on the basis of subjective and objective consistency, attention should also be paid to the efficiency of case handling. At present, some experts in criminal psychology express criminal psychology through images and depict suspects from various aspects in combination with other evidence of crimes. Due

Figure 9. Formation process of criminal psychology



to the limitation of criminal psychology, it is difficult to have an accurate understanding of criminal psychology traces of suspects. The continuous improvement of the theory of criminal psychology also makes criminal psychology play a very important role in criminal detection, which indeed provides more fair and efficient conditions for criminal cases. Criminal psychology and its formation are shown in Figure 9.

As can be observed from the above figure, the corresponding behaviors and psychological traces of criminal psychology in different stages are also different.

For the continental law system, taking China's criminal law as an example, the criminal law theory takes criminal psychology as an important condition to determine the establishment of criminal facts. It may cause the suspect to have certain criminal psychology due to the understanding of a certain thing, emotional expression, character, needs, beliefs, values, etc., and carry out criminal behaviors under the influence and domination of such criminal psychology. In the criminal law of our country, according to the criminal psychology, it is divided into intentional criminal behavior and negligent criminal behavior.

In the process of determining the actual case, it is necessary to clarify the criminal psychology of the offender, so as to describe it in the criminal judgment and qualitatively convict and measure the punishment. In the process of

determination, it is necessary to link the criminal psychology with the constitution of the crime to determine whether the constitution of the crime meets the conditions. It is just one of the conditions to judge the crime of the individual suspect through the psychology of crime. In China, the specific identification process would also determine the criminal capacity according to the age and intelligence of the suspect. For example, suspects aged 14-16 would only be punished under specific circumstances. This is based on the characteristics of each age group, which also reflects the impact of criminal psychology on the establishment of China's criminal law.

Of course, with the continuous development of science and technology, the means of suspects to commit crimes will be more intelligent, leaving less and less evidence, which requires the psychological concepts to further depict the criminal psychology of the perpetrators, and conduct more in-depth research on the contents exposed at the scene. A more accurate analysis of criminal psychology provides a new clue for investigators and adds a new important basis for criminal suspects' related behaviors. At the same time, some traditional concepts will be eliminated in the continuous improvement to make the punishment fairer and better protect people's basic rights.

The concept of criminal law is also formed through a long period of exploration, including

the concept of criminal psychology. It is an important content in the criminal law system and has a positive guiding and promoting effect on the criminal governance and criminal practice. In addition, with the rapid development of global economy and science and technology, both the continental law system and the Anglo-American law system are actively absorbing new concepts to provide continuous impetus for the development of criminal law.

The close relationship between criminal psychology and criminal behavior makes the punishment of criminal law more humane, which is related to the political concept of the country, that is, to protect people's basic rights and maintain social order. Through the normal analysis of criminal psychology, it is found that the most important point in the implementation of contemporary criminal law is to ensure that the criminal suspects can't use the defects of criminal law to escape the heavy responsibility and to pay attention to the fairness and efficiency of criminal law in practice. Criminal psychology has also become an important tool in case investigation, providing more powerful evidence for the detection of cases.

CONCLUSION

With the continuous changes of the society, the law is also constantly absorbing more new technologies and ideas, so as to provide more clues for the detection of criminal cases. At the same time, judges can balance the relationship between fairness and efficiency in the judgment process, so as to protect people's basic rights to a certain extent. In this research, the criminal psychology, the process of its concept, the Anglo-American legal system, and the characteristics of the civil law system are further analyzed, and the influence of the criminal psychological concept process on contemporary criminal law is found. However, in the research process, it focuses on the impact on the contemporary Anglo-American law system, while the impact on the continental law system is not enough. So it should be analyzed in detail in the later research. The analysis of the concept of criminal psychology provides more clues for the detection of criminal cases and allows relevant personnel to have a deeper understanding of the criminal psychology of suspects, providing more reliable basis for the detection of cases and more ideas for the research of criminal psychology.

Moreover, the study of the influence of the concept process of criminal psychology on the contemporary criminal law is conducive to the continuous improvement of the provisions of the criminal law, which provides impetus for the operability of Anglo-American law system and continental law system.

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