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# CRIMINALITY AND IMMIGRATION

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I. Since the remarkable development of the means of communication in the last decades of the XIXth century, there has been a corresponding influx of foreigners into almost every country of the globe.

Many of these foreigners are established more or less permanently in the country and pursue their vocations practically in the enjoyment of the same rights and subject to the same duties as the citizens of the country, the only difference being that they are excluded from the exercise of such rights as are the peculiar attributes of citizenship.

The prevalence of crime among the foreigners in different countries has naturally induced experts who are engaged in criminal-aetiological research to compare the native and foreign populations from the point of view of criminality.

The results of these comparative studies cannot be detailed here; it will suffice to state that they all agree in establishing that the proportion of criminals is much higher among the foreign than among the native population.

This fact being settled beyond dispute, their remains for discussion by investigators the question of the factors involved in this higher rate of criminality of the foreign population.

II. 1. In our search for the causes of the higher criminality of the foreigner, we have to observe in succession all those factors which criminal-aetiology recognizes as operative in producing or modifying criminality. Most of these factors are closely connected with the movement of population—with emigration and immigration.

Criminal statistics show that the greater the geographical distance between the earlier place of residence of the immigrants and their present place of residence, the greater and more varied is their criminality in comparison with that of the native population.

It is the general opinion that emigration is mainly due to economic factors, for the great mass of emigrants is made up of people who have always lived in straitened circumstances or have suffered a reverse of fortune. On the other hand in criminal-aetiology it is the common opinion, that the economic factors are of the greatest

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importance, and indeed many criminal-aetiological investigators favor the contention of the Italian Colajanni, that criminality is primarily due to economic circumstances. Consequently where immigration is high, the mass of poor or destitute immigrants tends to the increase of criminality directly through the economic circumstances. That immigrants generally arrive in a state of impoverishment is convincingly proved by the immigration statistics of North America.

Criminal-aetiological researches have shown that people engaged in agriculture are less addicted to crime than those who work in factories. During the period of industrial development in the United States, the great influx of artisan immigrants who flocked to the industrial centers was accompanied with a corresponding increase of criminality, to the relative disadvantage, from the point of criminality, of the total immigrant population.

Moreover, it is a common experience that criminality in large cities is more prevalent than in the country, in consequence of the fact that the crowded urban population has more opportunities of indulging in quarrels and other criminal acts.

Among immigrants we find many who are not only ruined economically but are also ethically depraved, individuals who were not able to adapt themselves to the circumstances of their home country and, being equally dissatisfied with their lot in the new country, are ready to take part in different social movements. Besides, there are many emigrants of the proletarian class who contribute to the increase of criminality. Even in their new place of residence their nature remains unchanged; even here they are always discontent and take part in social movements and strikes, oftener than the native population.

And if between the immigrants and the native population there are racial contrasts, this circumstance will make the existence of the immigrants still more difficult and, coming into collision with the members of the other races, they will be more prone to crime.

Statistics show that among emigrants there are very many bachelors and unmarried women. And in criminal-aetiology it is established that the criminality of the bachelors and unmarried women is much higher than that of the married men and women, for family life tends to diminish criminality. Thus, even in this respect immigration directly tends to the increase of criminality.

It is the opinion of modern criminal-aetiology, that training within the family is more conducive to firmness of character, which exercises a moderating influence on criminality. Statistical data in this

direction have been collected only in Austria. It is a well-known fact that among immigrants there are many who have become ethically degenerate through lack of a good education. Thus, the lack of education makes its influence felt also in immigration. Perhaps it would be possible to collect statistics in this matter from records of illegitimate births, for such records may also be generally taken as indicators of neglected education.

And an indirect effect of education, in connection with immigration, is manifested in the fact that even the children of immigrants commit more crimes than the children of the native population. The education of the children of immigrants differs from that of the native population, and a consequence of this is, that their behavior is also different. The higher rate of criminality among the children of immigrants is especially noticeable in the official statistics of the United States of North America,<sup>2</sup> which agree with the conclusion of private investigators<sup>3</sup> as to the influence of foreign origin on the increase of criminality.

It has long been accepted as an established fact in criminal-aetiology that all human aberrations such as prostitution, alcoholism, and addiction to narcotics, cocaine, etc., which are important from the standpoint of morality, have an influence on the magnitude and direction of criminality; and among immigrants we find many individuals who increase the sum of criminality under the influence of these indulgences. The United States of North America therefore prohibit the immigration of persons who are addicted to such practices.

A consequence of inferior education is a less capability of competing in life, and this again leads to an increase of criminality. Among immigrants, however, there are many of a low grade of education. Consequently in the United States of North America the regulations allow the immigration only of persons who have acquired a certain standard of education. Many countries only admit such immigrants as can read and write. But this low degree of education is scarcely sufficient to counterbalance the disposition to criminality. Differences of education will consequently also exercise a criminal-aetiological effect in connection with immigration.

Then we shall find among the important factors in criminal-aetiology still one which is in connection with culture, namely, the differ-

<sup>2</sup>Prisoners and Juvenile Delinquents in Institutions 1904, Washington, 1907, p. 50.

<sup>3</sup>E.g.: Prescott F. Hall; see: Facts on Immigration. Report of the Proceedings of Conferences on Immigration, held in New York City, Sept. 24 and Dec. 12, 1906, by the Immigration Department of the National Civic Federation, 1907, p. 2.

ences in the legislative regulations. If a person comes from a country in which private property is protected less strictly and immigrates into a territory where the defense of property rights is more perfect, it is more likely that he will come into conflict with the law.

A preliminary symptom of law are the different national customs many of which, in primitive cultural circumstances, will also influence criminality, as, for instance, in the case of blood-feud. If immigrants come from countries where such abuses as the blood-feud and duelling are in vogue, to a country where law and the respect of law are more highly developed, they will be less capable of withstanding temptation and will commit more crimes against persons than those who have lived from childhood under more developed legal institutions.

Thus, immigrants coming from countries where culture, legislative regulations and national customs are more primitive, will, under better circumstances, more readily succumb to temptations.

In the newest school of criminal-politics we often meet with the thought that men commit more crimes in places where they are unknown than in places where they have many acquaintances and are, thus more exposed to detection. This thought finds expression in the punishment which limits the freedom of the criminals. For instance, criminals in the large cities can much more easily commit usuries because there they are unknown and can more readily ensnare their victims; but if such persons are banished to a small town where they can be well known and kept under inspection, they will have much less opportunity of committing crimes. It is the same with the immigrants. In their earlier place of residence they lived among acquaintances to whose inspection they were constantly exposed; now in their new place of residence, nobody knows them, and consequently it is easier for them to commit crimes. The unfamiliar surroundings will encourage them to criminal thought and deeds.

The customs adopted under earlier surroundings are now, from another point of view, of great importance. We refer to the demoralizing and brutalizing influence of the war.<sup>4</sup> In order to make good soldiers, it was necessary during the period of service to train men, by violent methods, to attack the lives of their fellow creatures and, for tactical purposes, to destroy the property of others. Such a course of training is ill-fitted to prepare men for civil life, especially when they are drawn from the less cultivated classes of society. Men

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<sup>4</sup>See in this matter: *The Influence of the World War on Crime*, by E. Hacker, *Revue internationale de droit pénal*, vol. IV, 1927, p. 95.

who have passed through this school tend to become brutal, and commit acts of violence more readily and hastily, with the result that there can be remarked a serious increase in crimes of violence endangering body and life. Such crimes of violence are more frequent in the case of immigrants coming from countries which took part in the world war.

2. We have mentioned, above, all those factors of criminality which are in connection with the social surroundings of the criminals, such as his place of residence, racial contrasts, the degree of culture, etc. We have now to consider those circumstances which belong to the sphere of criminal-anthropology.

The discussion in connection with the theories of Lombroso and his followers has not yet arrived at any definite conclusion. Although it is very difficult to express an opinion in this matter, there can be no doubt that all those who are physically or mentally defective or degenerated, are more prone to crime, if only because of their diminished capacity for competing in the struggle for life. To this is due those regulations in the United States of North America and in Canada which prohibit the immigration of persons who are not bodily and mentally intact. It is evident that such people are not desirable immigrants.

In the United States of North America we find, in social policy, the tendency to hinder the immigration of inferior races. The so-called eugenetical tendencies try to realize this aim. The problem is in close connection with criminal law and criminal-politics. Problems of criminal-politics and immigration are, in many respects, concurrent.

It is an opinion generally accepted in criminal-aetiology, that some races have a higher degree of criminality, and, from the point of view of criminal-politics, the aim is naturally to exclude such races from immigration and to admit only the members of races acknowledged to be less criminal. In North America, efforts are made to hinder the immigration of the negroes, because, as a race, their criminality is relatively high. It would indeed be admissible to exclude from immigration all races with a high rate of criminality, such, for instance, as the gypsies in Europe.

Criminal statistics show that the criminality of juveniles, and of persons between the ages of 20 and 30 years, is much higher than that of others; furthermore that criminality in the male sex is approximately four or five times higher than in the female sex.

Statistics of immigration show that among emigrants there are many more males, than females, and that the majority of immigrants

are in the age of 20-30 years. The cause of this last-mentioned fact is evident. Persons under 20 years of age seldom emigrate unless in company with their family, and, on the other hand, men who are no longer young, are seldom capable of competing in the hard struggle of life which invariably awaits the immigrants. The fact that, among immigrants, there are very many who belong to the age and sex in which crime is more prevalent, affords an explanation of the high criminality of the immigrants.

Those persons who have incurred conviction or imprisonment have always a much harder struggle for life and therefore we find the aim in criminal-politics, by means of the probation system and similar institutions, to keep criminals, so far as this is practicable, away from the prisons, so that they shall be spared the disadvantages connected with an earlier imprisonment. Thus, if among immigrants there were many who had been earlier convicted, this would greatly contribute to the increase of criminality in the country of immigration.

North America therefore excludes from immigration those persons who have been convicted of serious crime. But the problem is not so easy of solution, because there are many persons who have committed crimes but have not been condemned, or who have emigrated to escape criminal procedure. Such cases have given rise to the saying that: Emigration is the safety-valve of the social order. The fact that heinous offenders are prone to relapse into crime, is sufficient reason for their exclusion from immigration.

Finally, we refer to one other factor in criminal-aetiology, namely, the influence of the so-called contra-social motives. In criminal-politics we often meet with the opinion that, to assure the social order, it is especially necessary to punish very heavily and render innocuous those persons who aim at destroying the existing social order, such, for instance, as the so-called anarchists. Consequently it is doubtless necessary to exclude all such individuals from immigration.

We have finished with the enumeration of those factors of criminality, which operate effectively in immigration. These factors are of different character; some of them are of a social character and consequently belong to the scope of criminal-sociology, while others are of an anthropological character and belong therefore to criminal-anthropology.

III. 1. In consequence of the higher criminality of the foreign population of almost every country, it becomes necessary to solve the problem, as to how it would be possible, by the use of special measures, to overcome or at least to diminish this higher criminality.

This aspect of the problem of criminality and immigration we have to treat from different points of view according to the difference in the character of the proposed measures. The special measures applicable for the purpose may be divided into different groups; one group possessing the character of criminal law; a second group, belonging to the administrative law, and a third group comprising measures not included in the first two groups.

2. Among the special measures of the character of criminal law, is the extradition of criminals. It frequently happens that criminals seek refuge in flight to foreign countries and consequently it becomes necessary to ask for their extradition. Our aim should be to extend the practice of extradition and to make the procedure for extradition as simple and informal as possible.

Then we must here refer to the institution of banishment by which a foreigner is removed from the territory of the state, where his crime was committed. But naturally now in the age of perfected means of communication, it is very difficult to assure the efficiency of this method of punishment. A similar measure is the expulsion of a person from a certain place; the effectiveness of this measure is smaller. The criminal is expelled, not from the whole territory of a state, but only, for example, from the territory of a town. Most crimes of usury are committed in the great centers of commercial life. In such cases it would be effective if the criminal were expelled from such a center and its surroundings, without banishing him from the territory of the state. Somewhere else, where commercial life is not so animated, it will be absolutely impossible for him to commit similar crimes.

It often occurs, that very rich foreigners commit crimes of less importance only through the craving for enjoyment. The habitual punishment, a small fine, will be hardly efficacious in such cases. But a fine fixed in a very high sum could be made efficacious even in the case of a rich foreigner.

In our present times when police-administration is so perfect, we see cases where foreigners are put under the supervision of the police. This is done when the government does not wish to apply harsh measures, such as banishment, to citizens of allied states. Now we find nearly everywhere a compulsory passport system; an efficacious measure would be to restrict the foreigner's movements by holding back his passport.

Especially in the case of the so-called cunning criminals, it is of a great importance that the public should be informed of their identity

and delicts. Therefore it is highly necessary to publish the sentences passed on criminals of this class.

Experience in the last few decades shows that social order is especially endangered by the deeds of previously convicted criminals. Most of these are guilty of a long series of crimes. Sometimes they are captured and convicted, but frequently they succeed in evading the arm of the law. When brought to justice, they usually aim at playing the rôle of the novice in crime. Although in the present age of dactyloscopy and registration of criminals, this is a difficult task, they nevertheless sometimes succeed, for their crimes are committed now in this country, now in that. It would be desirable to have an international registration of criminals. If this registration of criminals were organized internationally, the combat against relapsing criminals would have much greater chances of success. This method would be most efficacious in the combat with international hotel-thieves, coiners, till-breakers and like.

Our aim, however, cannot be attained simply by an international registration of criminals; it is necessary also to organize the police-authorities of the different states, so that they can cooperate more extensively and with less formality than at present.

3. The second group of special measures belongs to the administrative law. Many of these were introduced during or after the years of the world-war.

In the United States of North America a number of restrictions have long been in force, to prevent the immigration of undesirable individuals. For instance, there is a prohibition against foreigners who have been convicted of crime. The regulations are most varied in character. One extreme is the limitation of immigration by the regulation to the effect that immigrants must have at least a certain sum of money, sufficient to assure their economic existence—a regulation which is calculated to counteract the economic factors of criminality—the other extreme is that some persons, e. g., those who have been repeatedly convicted of crime, are absolutely excluded from immigration.

And here we must refer to the different constraints, introduced, for the most part, during and after the world-war; for instance, the compulsory passport system, or the compulsory official endorsement of passports, etc., by which traveling has assumed something of the character of the Middle Ages. If the object of all such measures is to hinder the immigration of criminals, then they are also of importance from the point of view of criminal-aetiology.

During the world-war we became acquainted with another measure of the kind, viz., the registration of foreigners. The surveillance thus exercised over the foreigners operated to counterbalance their presumably greater measure of criminality.

Often we meet with particular crimes, committed in connection with certain professions, such as, usuries in commercial life, or criminal abortions committed by midwives. If criminality of this kind greatly increases, it might be desirable to exclude foreigners from the practice of such professions.

If such crimes can be committed only in certain places, for instance, only in the great centers of commercial life, or if it is necessary for the criminal to remain in some particular place in order to consummate his crimes, the prohibition of residence may be a matter of importance. Similarly, some sort of restriction as to residence could perhaps be imposed on the foreigner.

4. We have said that beside those measures which belong to the criminal law and to administrative law, there are some others the purpose of which can be also to counteract the criminality of the foreigners.

Here we should mention some restrictions of rights, such as, the disability of foreigners to act as guardians or trustees, to act as witness to a will, etc. But it is uncertain, whether these regulations are expedient and effective from our point of view.

Especially in the United States of North America there is a passionate dispute as to whether the so-called eugenic aims and tendencies are justified. No doubt, all these principles are not yet proved. But, on the other hand, there can also be no doubt, that if we acknowledge in the slightest measure that these principles are justified, we are at once confronted with a second problem; namely, if we acknowledge the principle, that the inclination to commit crimes can be inherited, we are confronted with the problem as to whether the principle can be applied to exclude a foreigner from immigration.

IV. We have seen that criminality and immigration have much in common and often present problems which can only be solved by employing factors common to both.

For instance, if we know the above-mentioned factors which, in connection with immigration, exercise an influence on criminality, we can also with their help exercise an influence on criminality. Herein lies the very great importance attached to the inquiries of criminal-aetiology.

If we know that the immigration of persons in the age of 20-30 years, is accompanied with an increase of criminality in the place of immigration; or if we know that the immigration of industrial workers will have a similar effect, it is possible by suitable regulations to remedy these evils. For instance, the regulation would prescribe that male and female immigrants shall be admitted in like numbers, or that no more industrial than agricultural workers shall be admitted. By such regulations it would perhaps be possible to combat the increased criminality on the territories of immigration.

Seldom has the state interfered in the life of the individual to such an extent as during the world-war and the subsequent years. We sometimes meet with the contention that states exercise an excessive influence on the social phenomenon of immigration. But it is possible to respond, that this meddling on the part of the state does at least not affect the rights of the state's own citizens but the interests of foreigners, and this precisely for protecting the interests of the native population. Here there is a conflict of interests. But to secure the social life and order of the states it is undoubtedly necessary for them to exercise an influence on the immigration of foreigners.