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THE NEW CRIMINAL ANTHROPOLOGY¹

QUINTILIANO SALDAÑA²

A Criminalist

We see, turned toward the criminal, two groups with opposite viewpoints: that of the lawyers or jurists and that of the physicians or anthropologists. The former consists for the most part of idealists, strong partisans of the idealistic interpretation of human nature; the latter is comprised primarily of materialists, authors of the theories of the criminal according to the modulus of the *soma*, insensible to all that may be hidden behind the body wall, beneath the morphological sphinx.

Sometimes there is an exception to this general rule. Such is the case of an eminent French physician, Dr. J. A. Lacassagne (1843-1924), who explains crime on the basis of the determining influences of the "social environment;" such also is that of a notable Italian professor, Dr. M. L. Patrizzi (born September 23, 1866) whose "monogenetic theory of crime" I introduced in France;³ such is, finally and quite recently, the instance of a Portuguese scientist, Dr. S. A. Mendes Correa (born April 4, 1888), an illustrious physician, professor at the University and director of the Institute of Anthropology of Porto. He shows the possibility of reducing crime—to the return of a perfect anthropological integration—to a fundamental problem of "moral psychism," in a study of the "moral structure" of the criminal, which varies with "the individuality," almost always irreducible and therefore "atypical" of true delinquents. This study was made on subjects who were observed, compared and measured by scientific methods. Before us are three theories of crime, the respective work of three professionals, laboratory men accustomed to the handling of dead and living matter but who nevertheless bring to criminology non-material solutions: one, "social" or "psycho-social," another, "psycho-logical" or "bio-psychical," the third, "moral" or "psycho-moral."

Dr. Mendes Correa begins a lengthy scientific investigation by

¹Translated by Miss Betty Lee, Evanston, Ill., U. S. A., from *Revue internationale de Droit Pénal*. 10^e Année, Nos. 1-2, 1933.

²Professor of Criminal Law at the University of Madrid.

³*La Criminologie nouvelle*, Paris, "Les Presses Universitaires," 1920, p. XX, 175, 185.

studying Portuguese criminals.⁴ He reaches this conclusion: the biological and psychological study of Portuguese criminals shows us that they do not constitute a definite type, entirely different from the normal. We find variations, especially in the field of psychology, which permit us only to repeat our preceding statement. There are healthy-minded delinquents, among whom are a number of chance delinquents; there are many degenerates and half-wits, especially criminals born of criminals, some violent individuals, etc.; finally, there are obviously insane delinquents, although they are fewer in number than the preceding kinds. All this indicates that criminal biology and psychology, as well as anthropology, do not allow a type of Portuguese criminal to be determined, but that they permit rather a great variety of types.⁵

Infantile Delinquency

When Dr. Mendes Correa launches a vertical investigation of crime in the field of infantile criminality, at the *Tutoria da Infancia* in Porto (1912-1914), where he is physician-anthropologist and associate justice. This is what he finds: For the most part, they are *normal* beings, though "delinquents by habit," for want of "opportune correction immediately after their first offense," without a family center where they might have been instilled with healthful forces to avoid repetition. But, side by side with all these minors whose crimes have a normal genesis—a physiological origin which does not correspond to any profound organic or mental irregularity—there are some young delinquents in whom these irregularities stand out in relief. Of the latter, the following types are generally distinguished: "those *abnormal by virtue of intellectual deficiencies* (idiots, imbeciles, the feeble-minded and especially the simply mentally-arrested); the *unstable*, with or without mental weakness; the *asthenics* (apathetic, listless, "possessed"); those *abnormal by virtue of emotional or moral deficiencies* (undisciplined, unmoral, vicious); those with *convulsive abnormalities* (serious attacks of epilepsy, hysteria, St. Vitus dance); and those properly called insane." Then, "those *abnormal by reason of physical or sensory defect*," which irregulari-

⁴*Os criminosos portugueses. Estudos de Antropologia criminal*, 2nd edit., Coimbra, Amado, 1914. We do not know the date of the first edition, out-of-print, a volume of 309 pages and 97 engravings.

Previous criminological works: *O índice cefálico nos criminosos portugueses*, in *Annaes Scientificos da Academia Polytechnica do Porto*; *Um delinquente habitual. Exame medico-antropologico*, in *Gazeta dos hospitaes do Porto*, etc.

⁵*Os criminosos*, 1914, pp. 298-299.

ties collaborate only by accident with other most important factors in crime." Finally, "those called *abnormal by reason of educational shortcomings* (illiterates, scholastically retarded individuals, those vicious and immoral by acquired habit or because of the influence of their social environment, etc.), who give a larger quota of delinquency; but in actuality it is here a matter of abnormal background, because their brains do not necessarily have abnormal or pathological structures. Decently reared, these children would be no different from normal children." In the *Tutoria*, "some of the minors confined achieve physical, intellectual, and moral improvement. This improvement is the real proof that we are dealing generally not with constitutionally or pathologically abnormal individuals but normal individuals who have lived in the worst sort of educative environment."⁶

At about the same time he makes inquiry into the "callousness of criminal children" at Porto.⁷ And some years later he comes upon a prodigious case of this. "It is the case of fourteen-year-old Louis A. R., a young violator, assassin, thief and necrophile, brutal and sadistic."⁸ His cranial perimeter (53) was normal; from the anthropological point of view, Louis did not differ materially from normal children of his age, did not show any morphological stigma." From the physiological point of view, writes M. Correa, "I was able to find no appreciable irregularities. A summary examination of the digestive, respiratory and circulatory apparatus furnished us with no indication of abnormality. The organs of sense and general sensibility appeared normal. Motility and the reflexes were normal. The dynamo-metric pressure was regular. In the intellectual sphere he presented no appearance of defects or of disturbances worth registering." Nevertheless, "the emotions appeared very much diminished or completely absent." Accordingly, "it was a matter evidently of abnormality by reason of moral and emotional deficiency;" but "the external morphology of Louis was in disaccord with the Lombrosian type of born criminal. It did not correspond to his psychical irregularities, otherwise conspicuous almost exclusively in the emotional and moral sphere."⁹

⁶*Crianças delinquentes. Subsídios para o estudo da criminalidade infantil em Portugal*, Coimbra, Amado, 1915, pp. 6, 8, 127, 128.

⁷*Giria de crianças delinquentes. Tutoria da Infancia do Porto*, in *Tutoria*, Lisbonne, 1915. Cf. *A nova Antropol. crim.*, 1931, pp. 137, 169.

⁸*Um caso no vulgar de criminalidade infantil*, in *Trabalhos da Sociedade Portuguesa de Antropologia e Etnologia*, IV, 1930, fasc. IV, extr. p. 8. Cf. *A nova Antrop. crim.*, 1931, p. 127.

⁹Op. cit., pp. 8, 9, 11. Cf. *A nova*, etc., 1931, pp. 127, 128, 130, 131.

Besides feelings, it is a matter of "the moral ideas of young criminals." These were examined (in relation to non-criminals) in three hundred pupils of the public schools of Porto, then among the wards of the correctional colony of Izeda (ages thirteen to twenty years) and those of the central *Tutoria of Porto* (nine to nineteen years). The study is still in progress, but an anticipation of definitive conclusions permits the assurance that "there clearly exists a diversity between the moral concepts of normal children and those of young delinquents."¹⁰

And that is why the profound study of childhood and youth has permitted this anthropologist-physician to understand the human mind. For, as Herbert Spencer said, "Mind can be understood only by observing how mind was evolved."¹¹

Beggars and Criminals

Parallel to Lombroso, who investigates the attendant factors of crime in the field of prostitution, Dr. Mendes Correa explores in Portugal the environs of criminality. He studies the beggars of Porto confined in the *Entreposito*, of which he was director in 1919, and this is the Portuguese criminologist's deep conviction, as a point of departure of these horizontal investigations: "In examining these beggars, I have been vividly impressed by the resemblance of some of their types to those of criminals, just as I have been struck by the almost identical character of the determinative processes of mendicity and crime."¹² This study of "several hundred mendicants" has as its foremost conclusion that beggary "may be considered as a preparation for crime, when it is not an equivalent of it, or a form of incapacity." In fact, like Portuguese criminals (*supra.*), "beggars, above all the *voluntary unemployed*, are frequently abnormal by virtue of educational defects; among these individuals are found a great many specimens who are characterized by strong affective anaesthesia and by certain perversions of the moral sense."¹³

Now, what are, and what is the degree of, the connections established between the indolence of these "voluntarily unemployed" and

¹⁰*Ideias morais em jovens criminosos e nao criminosos*, in *Arquivo da Rev. de Antr. Crim.*, Porto, Sept., 1931. Cf. *Asociación española para el progreso de las ciencias. Congr. de Lisboa*, Madrid, Huelves imp., 1931, p. 58.

¹¹*The Principles of Psychology*, 6th edit., London, William & Norgate, 1905.

¹²*Mendigos é Criminosos*, in *Portugal Medico*, 3rd series, V, 1919, No. 1, extr. p. 1. Cf. *A Nova Antr. Crim.*, 1931, p. 171.

¹³*Mendigos é Criminosos*, 1919, pp. 1, 8. Cf. *A nova Antr. crim.*, 1931, pp. 171, 187, 188. Varied in a second edition: "characterized by hypo-affectivity and by gaps and perversions in the moral sense."

beggary on the one hand, and crime on the other? Is it that from the indolence of the poor there springs want—*causa causarum*—which in its turn brings about: (a) mendicancy, (b) prostitution, and (c) delinquency? Isn't it true that in criminal evolution from violence to fraud, professional beggary among individuals capable of work and not forced into unemployment by economic depression involves a coefficient of illicit deception, of genuine fraud, however slight? The alleged defects of some mendicants in the central nervous system—may it not be explained by their chronic failure to be trained for work? Of all Correa's work in Portuguese criminology, it may be that this part is least carefully done.

The Moral Individuality of the Criminal

The most original thing that Correa brings to the evolutionary integration of criminology is the new idea of the "moral individuality" or "psycho-morale" of the criminal. This is how he expresses it: "More and more I am convinced of the *atypicality* of criminals and of the inanity of the many classifications proposed for them. Certain, there are delinquents susceptible to nosographic labels to which are attributed a causal relation with their crimes. There are delinquents who may be classified according to their functional anatomical constitutions, or even according to their moral structure if characteristic, in a useful way, of criminal groups. But for the most part, it is a question of *individuals* not reducible to a scheme of established types, individuals representing mixed characters or personalities of a highly complex nature."¹⁴

In the course of an investigation into applied anthropology, he asserts that "the living reality is not in types but in individuals."¹⁵ In this he agrees with Professor P. Benedetti of the University of Bologna in his study of the individuality in its extreme dynamo-humoral, morphological, and psychological complexity.¹⁶ He presents as evidence the popular traditions and folk-lore of Portugal to indicate that "the notion of inequality, of individual diversity among human beings, delinquents as well as non-delinquents—an inequality asserted meanwhile of delinquents by the new criminology—appears clearly in some adages."¹⁷

Finally, he renders justice to "Lombrosian criminal anthropology

¹⁴*A nova Antropologia criminal*, 1931, p. VI.

¹⁵*Op. cit.*, p. 42.

¹⁶*L'indirizzo odierno della medicina clinica: lo studio dell' individualità*, in *Scientia*, 1926, p. 173.

¹⁷*A nova Antrop. crim.*, 1931, pp. 137, 138.

and the positive school of penology," which "have with reason made prominent the importance of the study of the *individuality* of the criminal for effective penal treatment. But there has been given an unacceptable pre-eminence to morphological characterization, which they endow with a specificity today generally denied. They have judged it possible to bracket criminals into a small number of types, something which the new criminal anthropology considers pure artifice, since it understands that the criminal is first of all biologically atypical—that is to say, of a polymorphism that defies all attempts at rigid systematization."¹⁸ "Thus," concludes M. Mendes Correa, "without excluding measurements, descriptive somatological observations, the use of mental tests, the investigations into early environment, the search for clinical symptoms of all sorts, etc., in most cases we must make a place in the principal plan of study of each criminal for efforts to determine his moral individuality."¹⁹

Now, how to determine the moral individuality of the criminal? How to express the formula of each individuality with a view, perhaps, to a possible *moral identification*?²⁰ "The definition of moral individuality," says M. Mendes Correa, "is not easy, inasmuch as that individuality is the synthesis of a multitude of complex elements—affective, receptive, motor, intellectual. It would be desirable to obtain for delinquents some individuals psycho-moral formulae, in which the interest would be very great from the point of view of the severity of criminal justice and the efficacy of penal applications. A psycho-moral notation, organized like that of M. Frassetto,²¹ would be very interesting in criminal anthropology. The formula would have to encompass especially emotionality, the intensity of motive reactions (measured particularly as to their more or less dangerous character), suggestibility, stability of character, intelligence, firmness of moral ideas (distinguishing those of piety and probity), disposition toward work and, as useful complements, some co-efficients relating to psycho-moral heredity, the morality of the original environment, physical health, etc."²²

¹⁸Op. cit., p. 293.

¹⁹Op. cit., p. 307.

²⁰Neither this phrase nor this idea appears again in this author's work. In an entirely different sense, see *Crim. Nouv.*, 1929, pp. 124-125.

²¹For the system of morphological notations, see Frassetto, *I problemi dell'Antropologia criminale moderna*, Bologne, 1905. Cited in *La Crim. Nouv.*, 1929, p. 189.

²²*L'étude du criminel en Portugal*, Porto, Impr. port., 1932, pp. 26-27. This is a conference held by the Faculty of Law of Paris, April 21, 1931, under the auspices of the *Ecole de Criminologie*, and at the Palace of Justice of Brussels, May 11, 1931, under the auspices of the Belgian Union of Penal Law and the Royal Belgian Society of Anthropology and Prehistory.

Integral Criminal Anthropology

It is now apropos to fit the criminological doctrine of Dr. Mendes Correa, in its entirety, within the limits of the theoretical tendency of contemporary criminology. Since attending the meeting of the Portuguese Society of Anthropology and Ethnography, in 1925, he has wished to join forces with us, under the scientific standard of the *integral criminal anthropology*. He subscribes to the definition of criminal anthropology suggested in 1915 and established in 1929: "all anthropology applies to the study of the delinquent activity of the normal man; it is the science of causes and individual effects of crime."²³

Hé thus comes to the following conclusion: "Integral criminal anthropology, as we view it, is not a chapter of pathology; it ought to include among its own chapters, however, some very important ones on the pathology of criminals. The term *integral* demands, in my opinion, that there be a place for abnormality. The physician is an indispensable aid to the criminologist. But a large part of this science should be devoted to studies of the normal criminal—the biologically healthy, socially delinquent individual; in this same division there should be also a place for those with slight morbid or degenerate anomalies not directly connected with practical criminal activity and not constituting a very strong predisposition for future criminality. In the case of normal delinquents there is equal necessity for physical and psychical observation in view of the penal term to be served. The variations of individual organisms is an axiom of biology. In the most completely normal cases there are as many physical and psychical anomalies as there are individuals."²⁴

More recently, Dr. Mendes Correa has desired to call our view "new" rather than "integral." He adds: "there is no inconvenience in calling *integral criminal anthropology* (Saldaña) the new criminal anthropology, since it includes biologically normal as well as abnormal delinquents. We have adopted this term which is useful in avoiding confusion with the Lombrosian criminal anthropology."²⁵

Meanwhile, what is the philosophical construction of this scientific trend?

²³*Antropologia criminal integral. O normal delinquente é a crise moral. Conferencia realizada na Sociedade portuguesa de Antropologia e Etnologia, in Bolotin do Instituto de Criminologia, V, 1925, extr., p. 9. Cf. our books: Criminologie Nouvelle, 1929, p. 157, 162, 193-211; La Antropologia criminal, 1915 p. 74; Comentarios alCodigo penal de 1870, Madrid, Reus, 1920, I, 216. Comp.: Il pensiero giuridico-penale. Programma, Messina, G. Crupi, s. a., p. 5; This system unitario—perhaps better "diremmo integrale . . ."*

²⁴*Antrop. crim. integr.*, 1925, pp. 22, 23.

²⁵*A nova Antropologia criminal, Porto, "Fac. de Ciencias," 1931, p. 311.*

Pragmatism in Criminology

In this decade Dr. Mendes Correa has introduced in Portugal the "new ideas"²⁶ to which he has lately adhered. He speaks of a "pragmatism which has its basis in *experience* and is a scientific method validated by experience;" he stresses "a recent pragmatic theory of crime and punishment . . . which is concerned, above all, not with criminal *intention* but with *criminal capacity* and with the result of the crime as well as of the penalty;" he praises "a criterion of pointed pragmatic workmanship, which Saldaña recently has phrased very aptly."²⁷

Concerning religious feeling as one of the bases of educational treatment for the juvenile, Dr. Correa finds that it "would be unsound and harmful to ignore it completely, even as to the practical value of extra-terrestrial sanction."²⁸ As to the difference in a morale "founded essentially in profound postulates of sentiment and conscience," "the rule is mainly and obviously dictated by practical considerations."²⁹ Face to face with the "moral consequences of economic inequality," he has the extreme foresight to see in "religious education" which counsels "resignation, in consideration of the promise of a future reward," a "most efficacious practical solution."³⁰ Always pragmatism—even when he posits, in view of the fact that "the criminal is biologically *atypical*," a "polymorphism that defies all attempts at mass classification."³¹ Polymorphism is probably the individualistic criminological translation of the "pluralism" of W. James.³² He finally proclaims, "in the name of the most legitimate social pragmatism," that "it is necessary to admit the theory that human will is free and man is morally responsible."³³ A bold conclusion, but one which again confirms that fact of his "support of the new theory," a support for which I have deeply thanked my illustrious colleague of Porto in my homage to Ferri.³⁴

²⁶*Criminalidade em Portugal and Ideias novas*, in *O Brimeiro de Janeiro*, Porto, Aug. 10 and Oct. 2, 1923.

²⁷*Antr. crim. integ.*, 1923, pp. 5, 7, 21. Cf. *A nova Antr. crim.*, 1931, pp. 68, 71, 91. I have refrained from including the flattering compliments.

²⁸*A nova Antr. crim.*, 1931, p. 169.

²⁹Ob. cit., 1931, p. 268.

³⁰*A nova Antr. crim.*, 1931, p. 285.

³¹Op. cit., 1931, p. 293.

³²See our *Crim. Nouvelle*, 1929, p. 290.

³³Op. cit., 1931, p. 302. For a similar opinion and a discussion as to whether it is really practical, see our essay *Les limites du Pragmatisme pénal*, xtr. from *Studi in onore di Ugo Conti* (Città di Castello, Tip. U. A. G., 1932), p. 7.

³⁴*Le Pragmatisme pénal*, in *Scritti in onore di Enrico Ferri*, Turin, Utet, 1930, p. 278.

Control with the Contemporary Criminology

To what extent are the ideas of Mendes Correa in harmony with the postulates of the new criminology? From the first, says Dr. Healy, director of the Judge Baker Foundation (Boston), who³⁵ penetrates the craft of the criminal type and studies the "delinquent individual" in his native state. Healy goes on to say that all adult criminals, even the hardened ones, have acquired their anti-social tendencies where they first appeared, during childhood or adolescence, and under determining conditions of heredity and environment. The obvious thing is to approach this criminal problem by analyzing the "individual cases" of child or juvenile delinquency. He presents 1000 of these cases, of which 176 are "case histories." Finally, far from attributing crime to organic anomalies, Healy explains it on the basis of "mental conflicts"³⁶—especially certain deceits, false accusations and even swindling.³⁷

Now to return to the study of the criminal individuality, of great value in preaching the lack of standardization of the criminal-type. According to the American educator, E. R. Groves, "we are forced to interpret criminal conduct in the same manner as we interpret any other kind of conduct. The criminal as such is a product of hereditary and social influences just as is any one else. No individual succeeds perfectly in meeting his trials."³⁸ The criminal-type died ten years ago at the hands of Dr. Charles Goring of England—assisted by Dr. Charles Pearson—at the end of a famous scientific investigation. "Our inevitable conclusion," he states, "must be that nothing like the criminal-type exists."³⁹

An interesting item in this study is "that there are the same differences, as regards cranial measurements, between the seniors of Cambridge University and those of Oxford as there are between criminals and law-abiding people."⁴⁰ Finally, the criminal is by no means insane—the "morally insane" of Lombroso, although there are a number of "borderline mental cases" among criminals. These

³⁵*The Individual Delinquent*, Boston, 1915; 2nd edit., Boston, Little, Brown and Co., 1929. The work in general.

³⁶*Pathological Lying, Accusation and Swindling*, in coll. with Mary T. Heath, Boston, 1915.

³⁷*Social Problems and Education*, N. Y., 1923, p. 39.

³⁸*Social Problems and Education*, N. Y., 1923, p. 39.

³⁹*The English Convict. A Statistical Study*, London, 1913, p. 173. For his doctrine of the "criminal diathesis," see *Criminologie Nouvelle*, 1929, p. 175.

⁴⁰Ph. A. Parsons. *Crime and Criminal. An Introduction to Criminology*. N. Y., A. Knopf, 1926, p. 77.

last have been classified by V. V. Anderson⁴¹ of the United States and examined in the American reform schools by F. Kuhlmann.⁴²

When Mendes Correa denies the criminal-type, when he refutes the idea of the specific "born criminal," he is in no less accord with the chorus of European and American criminalists. According to Maurice Parmelee (born October 20, 1882), professor at the Universities of Kansas, Missouri, Minnesota and at the College of the City of New York, "Lombroso appeared quite ignorant of modern biological science and especially of the theory of heredity; there is no distinct congenitally immoral type, and as to the 'born criminal' as a biological and anthropological type, it is evident that it does not and cannot exist. Lombroso committed a grave scientific error in expounding his theory."⁴³

In completely ignoring the exact field and limitations of heredity, Lombroso wilfully overlooked the import and value of *individual variations*; for, according to Jean Arthur Thomson (born July 8, 1861), professor at the University of Aberdeen, "the hereditary relationship includes the occurrence of variations as well as the reproduction of similarities."⁴⁴ But according to the law of "parallel variations" (Baron), it is not heredity that always determines the convergence to common forms, but "functional similarities," regardless of kind. Whence it becomes necessary to oppose the classical thesis of hereditary variations ("idio-variations" or "blasto-variations") which upholds the obvious actuality of modifications conditioned by environment and profession, called "para-variations."

Yet it is not only a question of "individual variations," which fall outside the limitations of the type. As psychological analysis becomes keener and psychometric investigations more exact and certain, the laboratory student can judge the always increasing importance of the coefficient of "human variability," in spite of the "law of constancy" of psychical phenomena. "Variability of reaction," according to Professor Raymond Dodge (born November 21, 1871) of Yale University, conditions the development and even the

⁴¹*A Classification of Borderline Mental Cases Amongst Offenders*, in JOURNAL OF CRIMINAL LAW, VI, 1916, pp. 689,695.

⁴²*The Mental Examination of Reformatory Cases*, in Journ. Crim. Law, V, 1915, pp. 666, 674.

⁴³*Criminology*, N. Y., Macmillan, 1918, chap. IX. Cf. *The Principles of Anthropology and Sociology in Their Relation to Criminal Procedure*, N. Y., 1908, chaps. I, II, and *Introduction to Lombroso: Crime, Its Causes and Remedies*, Boston, 1911.

⁴⁴*Heredity*, London, 1908. Cf. *Biology*, in collaboration with P. Geddes, London, 1924, and *Concerning Evolution*, L., 1925.

intellectual basis of conduct.⁴⁵ Do criminals differ among themselves? "Variational psychology" and the "Differential Psychology" of W. Stern (born September 20, 1871)⁴⁶ disclose the divergences in human activity in the course of the conscious life, and always within the realm of normal psychology.

Thus, when Mendes Correa finds that "there is justification for the irony with which certain criminologists speak of the naiveté of some investigators who triumphantly make their observations of criminals consist of a statement of extensive and minute measurements;" when he proposes "selecting the measurements, making them precisely, drawing an exact criticism of their significance,"⁴⁷ he is but agreeing—perhaps unconsciously—with the new laws of what we may call *qualitative statistics*, in determining the "Index of criminality." These laws are in accordance with the method of Thorsten Sellin, professor at the University of Pennsylvania, which proposes "choosing the data relating to certain selected offenses," those of "great danger" and of "public nature."⁴⁸

Consistent with his theories of criminal atypicality and of the complex etiology of crime localized in childhood, Mendes Correa launches into the study of an "uncommon case of child crime" (*supra*). This study is similar to—and a little in advance of—that of Clifford R. Shaw's which was done at the Institute for Juvenile Research, in Chicago, and which concerns the "natural history" of Sidney, a young criminal, veteran of a criminal career begun at the age of 7 years.⁴⁹ "A good career!" It is on the basis of such "case studies" that modern criminology willingly turns to a new descriptive that is sceptical of "types"—perhaps in penitence for having been excessively synthetic—since it approaches warm and living criminal reality, forsaking cold and long dead theories. The moral psychology of the child offender—there is an intimate laboratory of reactions and experiences, of customs and institutions, if he will dictate his "Autobiography" as did young Sidney, without fear or lies.

The entire scientific field of this "new criminal anthropology" coincides with the most modern trends in Italy. According to the illustrious professor of the University of Messina, Girolamo Penso,

⁴⁵*Condition and Consequences of Human Variability*, New Haven, Univ. Press, 1931.

⁴⁶*Die differentielle Psychologie in ihren method. Grundlagen*, Leipzig, 1911.

⁴⁷*L'étude du criminel*, 1932, p. 18.

⁴⁸*Die Grundlagen eines Kriminalitäts index*, in *Monatsschrift für Kriminalpsychologie und Strafsrechtsreform*, 1931, October. Cf. *The Basis of a Crime Index*, in *JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY*, 1931.

⁴⁹*The Natural History of a Delinquent Career*. Chicago University Press, 1931.

who gives the final blow to the idea of the "born criminal,"⁵⁰ "the specialization of crime" is an "ethical and not a biological specialization, since it has not been said that defective moral judgment necessarily is founded in a physio-psychical weakness (i. e., in a structural defect)." He asserts that "there are not only normal men who commit offenses, but the great majority of individuals of incriminating actions are, fundamentally, completely normal, that is to say, equal to all those who have never committed a crime, and they are their equal not only physically, but in education, intelligence and sensitivity as well. Some perpetrators of deeds of secondary seriousness . . . of blows, duels, quarrels, fraudulent bankruptcies, cheating, frauds of minor importance, practical jokes, idleness and vagrancy, of acts demanding the arbitrary exercise of good sense, of contraventions, etc., have a very strong tendency toward criminality. But the physical, psychical and moral health of the major part of these individuals and their resemblance, in this connection, to those innocent of crime is so apparent, both to practical examination and scientific investigation, that we ask ourselves how one could ever come to the opposite conclusion by a method called experimental."⁵¹

Mendes Correa is plainly in the right when he cites Pende and his "definitions or formulae *humorales*,"⁵² when he suggests "that an endocrinological inquiry would be interesting" in the case of the little monster Louis,⁵³ finally, when he dares to embody in the "new criminal anthropology" some endocrine theories⁵⁴ and to advise that "special attention to endocrine functions"⁵⁵ be made in research. For, among a number of recognized works on criminal endocrinology,⁵⁶ real treatises already are found in the United States, such as that of Max G. Schlapp, professor at New York, and Edward H. Smith;⁵⁷ of which work, Chapter III—*Back to Lombroso*—is a most splendid resumé of all the mistakes, confusions and contradictions of the "great professor," bringing them to light by a very clever analysis.

Finally, Dr. Mendes Correa approves the "psychic traumata" of

⁵⁰*Somatismo e criminalità*, in the *Scuola penale unitaria*, II, 1928, 247. Cf. our *Crim. Now.*, 1929, p. 254.

⁵¹*Lo studio psicologico del delinquente*, in *Il pensiero giuridico-penale*, III, Messina, 1931, fasc. 1, pp. 10, 11, 13. It is the initial lecture of a course in criminal psychology given at the University of Messina, March 1, 1931, under the title of *Delinquenti e folli nello studio psicologico del delitto*

⁵²*A nova Antr. crim.*, 1931, p. 49.

⁵³*Un caso invulgar*, 1930, p. 11. Cf. *A nova*, 1931, p. 130.

⁵⁴*A nova Antr. crim.*, 1931, pp. 273-277.

⁵⁵*L'étude du criminel*, 1932, p. 25.

⁵⁶See *Criminologie nouvelle*, 1929, pp. 186, 207-211.

⁵⁷*The New Criminology. A Consideration of the Chemical Causation of Abnormal Behavior*, N. Y., Boni and Liveright, 1928, pp. 54, 74.

Freud,⁵⁸ the Freudian theory of "the interpretation of dreams"⁵⁹ and their erotic nature, although "less generally understood than psychoanalysis pretends," and he recognizes and notes "the vast realm of the unconscious" along with all the other discoveries of Freud so "important (but not exclusively so) in criminal psychology."⁶⁰ Two Viennese psychoanalysts, Franz Alexander and Hugo Staub, are attempting a new conquest in criminology, the scientific reality of which—in view of a *psycho-analytical criminology*—I have envisaged.⁶¹ They are endeavoring to establish the "general psychic mechanism of criminality."⁶² Their success is greatly to be desired.

The Dangers of Criticism

Despite this skilful and notable work of investigation, Dr. Mendes Correa fell, perhaps, into a practical error. He ventured into the rugged field of scientific criticism in criminology. His conclusions being contrary to those of the criminal anthropology of Lombroso, he arrived at the bold position of declaring overtly a divergence from this school. He proved—this is his mistake—that "no one now confuses the Italian school of criminal anthropology," of which the principal representative was Lombroso, "with criminal anthropology properly so-called, a branch of a science cultivated by investigators of various doctrinary orientations, many of which are contrary to the Lombrosian conception of the delinquent and crime."⁶³

This fine distinction has not had the good fortune to please an illustrious heir to the Lombrosian chair; a justifiable displeasure, since the criticism could and even ought to have been hidden. But the tone of the disagreement, this time, was reduced to a mild censure of the "verbal equivocations" regarding the term "normal delinquent," "because the adjective contradicts and denies the noun."⁶⁴ As much as to say that the adjective "abnormal" contradicts the noun "delinquent" (since it is not proved that a delinquent is an abnormal person), and that the Lombrosian thesis is expressed by means of improper terminology.

⁵⁸*Un caso invulgar*, 1930, p. 13. Cf. *A nova*, 1931, p. 134.

⁵⁹*A nova*, 1931, pp. 253, 256.

⁶⁰*A nova*, 1931, p. 157.

⁶¹*La Criminologie Nouvelle*, 1929, p. 186, 187.

⁶²*Der Verbrecher und seine Richter. Ein psychoanalytischer Einblick in die Welt der Paragraphen*, Vienna, *Int. Psychoan. Verlag.*, 1929, pp. 60, 66.

⁶³*Antropologia criminal integral. O normal delinquente e a crise moral*. Conference of the Portuguese Society of Anthropology and Ethnology, Lisbon, *Imp. Cadeta. Nacional*, 1925, p. 1. Cf. *A nova Antr. crim.*, 1931, p. 61.

⁶⁴M. Carrara, in *Archivio di Antropologia criminale, Psichiatria e Medicina legale*, 1925, p. 529.

More recently, on account of a widely read book,⁶⁵ the hostility toward the anti-Lombrosian anthropologist broke out suddenly. In the meantime, Dr. Mendes Correa—collaborator with Salomon Reinach (recently deceased), assiduous contributor to *Scientia* and to the great scientific journals of Paris, Vienna, Berlin, Madrid, Brussels, lecturer at the School of Criminology of Paris, and at the University of Madrid, Paris, Brussels, Barcelona, and author of 164 books and scientific works⁶⁶—had made himself an important name as an anthropological and ethnological savant in Europe, master of modern archaeology and prehistory.

And it is the term “new” applied to criminal anthropology—ignoring the fact that this title “criminal anthropology” might have been patented—that aroused the divine wrath. Dr. Mendes Correa is reproached for laying claim to “the newness of this old-model figurine.”⁶⁷ And as he is guilty of repeating the aphorism of Paul Naecke (born in 1851): “There are no born criminals; we are all born criminals,” people who do not know the origin of it say and repeat that it is “a whim,” a “recent whim.”⁶⁸ Recent—thirty-six years ago!⁶⁹ In turn Dr. Mendes Correa denounces the Lombrosian criminal anthropology . . . which “ignores the criminal manifestations in the biologically normal man” because of its “evident doctrinary unilateralism.”⁷⁰

And, what is more serious still, he has shown that “strong individual predispositions have not the necessarily congenital character attributed to them by the Lombrosian thesis, nor do they represent a morphological specificity, which has passed into the category of a myth, a fossil, and which formed the era from Gall to Lombroso.”⁷¹ Besides citations from my books, for which I am grateful to him, Dr. Correa invokes the authority of Professor E. Stockis, who, on the occasion of the opening of the Congress of Criminology, held at Liege, upheld criminology “in the general somatic and psychological anthropology which considers the normal man.”⁷²

Error! Had he had the prudence to wrap himself at times in the garments of the Lombrosian school, immediately—instead of being

⁶⁵*A nova Antr. crim.*, Porto, Imprensa Portuguesa, 1931, 330 pp.

⁶⁶See R. de Serpa Pinto, *Bibliografia do Professor Mendes Correa*, Porto, Instit. d'Antr., 1929.

⁶⁷*A nova Antr. crim.*, in *Arquivo, nouvelle série*, 1931, 356.

⁶⁸*Archivio*, li, 1931, 357.

⁶⁹Naecke, *Lombroso und die Kriminalanthropologie von heute*, in *Zeitschrift für Krim. Anthr.*, I, 1897, 17s. Cf. our *Crim. Nouv.*, 1929, p. 248.

⁷⁰O Prof. Carrara, 1931, edit. cit., p. 189.

⁷¹*A nova Antr. crim.*, 1931, p. 93.

⁷²*Les études criminologiques* in *Revue anthropol.*, XXXI, 1921, p. 415.

criticized as an enemy—he would have been invited to contribute to the *Archivio*; some of his books would have been translated into Italian and published by Bocca; and invitations to give a lecture at Turin and at Rome would have been forthcoming before long.

It was then that Dr. Mendes Correa had the courage to speak these words, full of courtesy as well as truth: "I understand perfectly the attitude of my amiable contradictor. Italian professor, disciple of Lombroso, his successor in the university chair and in the directorship of the *Archivio*, joined to the Master by the sacred ties of family, Professor Carrara has acquired a very special susceptibility to all that raises any question as to the rule of Italian scientists and above all Lombroso in this branch of study."⁷³

However, he was not the only victim of post-Lombrosian wrath.

Cesare Lombroso and Modern Criticism

After the death of Cesare Lombroso (Oct. 9, 1909), criticism took a certain direction. It established a neat distinction; on one side, the man; on the other, his work. Lombroso, everyone knows, did not like the silence of the laboratory; nor was he, as every skilled investigator should be, patient in waiting for results. Moreover—unfortunately from the standpoint of popular prejudice, fortunately with respect to intellectual curiosity—he was a Jew. Consequently, he was almost always misjudged. After he died, the equilibrium of justice was restored and the attacks ceased. Quite the reverse, the person of Lombroso becomes sacred, and the rain of praise falls steadily on that illustrious name.

Occasionally the criticism of his work, although just, has been perhaps a little severe. Thus Professor Puis Jimenez Asua (born June 19, 1887)⁷⁴ of the University of Madrid, has written on "the theories that Lombroso disinterred; his ideas which, brightened and varnished anew, he presented to the world, among rash statistics and insufficient data . . ." (p. 86); a "work of carting" (p. 87); "doctrine that Lombroso constructed with sections of ideas of others, just like those cushions and rugs that patient mothers, good housekeepers, make with everything that can't be used otherwise" (p. 92). Then he shows how the whole theory of the "born criminal," the term he made use of, was copied from the Spaniard M. Cubi y Soler,

⁷³O Prof. Carrara e "A Nova Antropologia criminal," in *Arquivo da Repartição de Antropologia criminal, Psicologia experimental e Identificação civil do Porto*, I, 1931, 181, 182.

⁷⁴*La Antropologia criminal y la Política criminal*, in *Revista de Legislación*, CXXVI, 1915, 85, 104.

and he adds: "the originalities of Lombroso!" (p. 92). Finally, a thorough investigator, he discovers in the now famous passage by Emile Laveleye, a sentence respectfully omitted by G. Tarde in his reference: "I was presented to an unknown young scholar, called Dr. Lombroso, who is a species of madman, a monomaniac" (p. 89). Which did not hinder Professor Jimenez Asua from presenting himself at Verona, some years later, at the unveiling of the monument (1921) and there addressing the assembly in honor of Cesare Lombroso.

I, last of the skeptics of the Lombrosian faith, modest adversary of that slightly too occult doctrine, have nevertheless defended Lombroso against excessive and sometimes unjust attacks. Here are my words of 1929: "Lombroso was always a master . . . and the snobbery of C. Prezzolini, according to whom Italians smile as they remember Lombroso, should be rebuffed."⁷⁵ And later, invited to collaborate in the jubilee of the *Archivio*, I wrote: "Although I have deviated from his path and am not of his school, I have had for Lombroso and for his work gratitude and admiration."⁷⁶

Moreover, while the positive school of penal law extends its domains more and more—lately impregnated with a technico-juridical trend—the Lombrosian school of criminal anthropology loses ground every day in the field of modern science. It is at the point where we have been astonished to discover very recently in Europe "a Lombrosian enthusiast who does not belong to the family of Lombroso. Here is a disconcerting thing."⁷⁷

Counter-Criticism and Its Risks

Against this criticism, serene in spirit, respectful of person, severe with the doctrine, arises the Lombrosian counter criticism, directed from the bulwark of the *Archivio* (converted into "agenda"). But it is always dangerous to grasp the old sword that hangs from a panoply in the manor, not only because it may have two edges, but mostly from the fear that the glorious weapon may cast on the wall—in contact with the carrier—an immoderate shadow. . . . That is the picture made by the patrimonial concept of criminal anthropology in Turin and the future actions behind the idea. Genius has

⁷⁵*Crim. Nouv.*, 1929, p. 171, 172. Vid. Prezzolini, *La cultura italiana*, Florence, *La Voce*, 1923, pp. 69, 334.

⁷⁶Fascicolo giubilare in celebrazione del primo cinquantenario di vita. *Archivio di Antropologia criminale*, etc. Series IV, li, 1931, 145.

⁷⁷*Les limites du Pragmatisme pénal*, in *Studi in onore de Ugo Conti*, Città di Castello, Tip. Unione Arti Grafiche, 1932. Extr. p. 8.

always had parasites, and therein perhaps lies a proof of Lombroso's genius. The great criminalist in his lifetime wanted to place himself on the first plane of scientific as well as popular curiosity—in Europe and above all in America.⁷⁸ He strove for that. Still, time passes and the face on the medal is erased. Today no one outside the circle of criminalists talks about Cesare Lombroso, not even in Italy. In contrast to all the criminalists in the world, he was not the only scientist in his family. And now that a quarter of a century has passed, his kindred do not wish to leave to modern science the supreme honor of discovering him. . . . And they will permit no combatting of his doctrines. While he lived, Lombroso knew how to be generous toward criticism. It is today that all negative criticism of the Lombrosian doctrine ought to be revenged! Family vengeance!

It is certainly a little too much for us criminalists—this restriction, according to which we are permitted to criticize all doctrines except one, even with the deepest respect for the memory of Lombroso, without risking our scientific reputation, fallen as we are under the sword of the divine wrath.⁷⁹

The Scientific Future of C. Lombroso

A characteristic of modern criticism lies in hurling itself not only at the past of a theory but also—and too soon, unfortunately!—at the future. In other words, it does not trust too much to the success or devaluation that is accorded theories at the time of their appearance, but envisages in them the eventual *result*—the future confirmation or invalidation in view of the orientation of the entire evolution of the science.

All theory awaits an uncertain future because it awaits everything. Its worth changes from day to day, since it depends upon a high authority whence comes its unforeseen share in the variable scientific allotment. Reputation is not a judicial sentence, and no legal fiction of *res judicata* protects it. Each theory is only a tool for interpreting nature, ultimately to dominate it the better; its truth, always changing, depends solely and exclusively upon its practicality in relation to its end.

⁷⁸According to his son-in-law, the eminent Guglielmo Ferrero. *Lombroso's Criminal Man*, N. Y., Introd. XIX, f. Cf. *In memoria di C. Lombroso*, Milan, 1910.

⁷⁹Happily, when this generation passes, it will become proper for criminalists of the future to analyze thoroughly Lombroso's work, for the sole heir, the young and brilliant litterateur, Leon Ferrero-Lombroso (son of Gina Lombroso and G. Ferrero), has hitherto occupied himself only with the theater and with historical and literary essays.

Upon the threshold of scientific posterity, which is hidden from us by a veil of mystery, behold the Lombrosian doctrine—of unknown destiny. Considering posterity ten centuries hence, the “elemental” of C. Lombroso still appears—with all due respect, like a young man with a future. Will his name pass along with the names of Galileo, of Newton, of Laplace? Will it be associated rather with the names of Jean-Baptiste Laporta, Cornelius Agrippa, of Paracelsus, of Joseph Balsamo, called the Count de Cagliostro? Will it not be mentioned at all? No one can tell. Frankly, I wish for Lombroso a scientific future more and more firm and glorious. Nevertheless, the distant memory of an illustrious name is a superfluity which demands the repeated intellectual impregnation of the womb of History. The personal worship of disciples justifies this, but not the *contraproducentem* effort of a family.

But argumentation must be aroused and *post mortem* propaganda—always permissible—must be spread without forgetting good manners. And pettinesses must be put aside. Then, wait. Immortality is not a whit hastened by commanding. If it ought to come, it comes.