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PIONEERS IN CRIMINOLOGY: CESARE LOMBROSO (1835-1909)

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Some fifty years have passed since the death of Cesare Lombroso, and there are several important reasons why a reexamination and evaluation of Lombroso's life and contributions to criminology are now propitious. Lombroso's influence upon continental criminology, which still lays significant emphasis upon biological influences, is marked. His work has been rather widely discredited in the United States, however, and in this article Professor Wolfgang assesses as the reason a misunderstanding of Lombroso's contributions. The author here reviews Lombroso's life, his works, the modifications of his ideas as his studies progressed, and the directions post-Lombrosian criminology has taken. Although Dr. Wolfgang is critical of the "born criminal" conceptions of Lombroso, as well as of certain aspects of Lombroso's research methods, he feels that Lombroso deserves recognition for redirecting emphasis from the crime to the criminal, for his progressive ideas concerning punishment and correction, and for stimulating new interest, controversy, and study in the field of criminology.

—EDITOR.

Homo sum; nihil humani alienum a me puto.—Terence.

In the history of criminology probably no name has been eulogized or attacked so much as that of Cesare Lombroso. By the time of his death in 1909 his ideas had gained wide attention among critics and friends engaged in the study of criminal behavior both in Europe and in America. More has been written by and about Lombroso than any other criminologist, a fact that makes doubly difficult the task of summarizing the life, work, and influence of one who has been called "the father of modern criminology." The depth and breadth of his investigations permit a post-lombrosian contemporary approach to the etiology of crime to proceed in Europe without suffering from a unilateral perspective. On the other hand, his emphasis on certain biological traits of criminal identification has provided sufficient fuel for continuous attacks from many critics who no longer take the time to read his works. The biological orientation in Europe and the predominant environmental approach in America represent not only two different perspectives on the same funda-

mental problem of the scientific analysis of the regularities, uniformities, and patterns of causative factors in criminal behavior, but reflect as well two different historical results of Lombroso's writings. As we shall see, the spirit of Lombroso is very much alive in some European contemporary research, especially in Italy, while in America generally, Lombroso has been used as a straw man for attack on biological analyses of criminal behavior. It is important, therefore, that a half century after his death we pause to re-examine the life and contributions of Cesare Lombroso and his position in contemporary criminology.

THE MAN, HIS WORKS, AND INFLUENCE
OF OTHERS¹

On November 6, 1835, the second of five children was born to Aron and Zefira Levi Lombroso.² As

¹ The author wishes to express his gratitude to Professor Richard Snodgrass of Temple University for ideas he contributed to this section; to Klaus Lithner and Thomas Dow, graduate students at the University of Pennsylvania, for their reviews of the Congresses of

a Jew born in Verona, then under Austrian rule, Cesare Lombroso had the benefit both of a mother who was highly ambitious that her children receive a good education, and of living in one of the few cities under the control of the Hapsburg Kingdom of Lombardy and Venice in which Jewish boys were allowed to attend the Gymnasium, or public school, controlled by the Jesuits. While still at school his interest in history was revealed in two serious papers written when he was but fifteen years old: "Essay on the History of the Roman Republic" and "Sketches of Ancient Agriculture in Italy."³ His review of the first volume of Paolo Marzolo's *An Introduction to Historical Monuments Revealed by Analysis of Words* greatly impressed Marzolo, who was a well-known philosopher and physician. Marzolo requested an interview with the unknown but learned reviewer and was amazed to find him only sixteen years of age. (The relationship that developed between them is revealed by the fact that much later Lombroso named his first daughter Paola Marzola.) Under Marzolo's influence, as well as that of prior readings, Lombroso was led at age eighteen to begin the study of medicine. He enrolled as a student at the University of Pavia during 1852-54, at the University of Padova in 1854-55, the University of Vienna in 1855-56, and received his degree in medicine from the University of Pavia in 1858 and his degree in surgery from the University of Genoa in 1859.

As an ardent student at the University of Pavia he was greatly influenced by Bartolomeo Panizza,⁴ a widely known teratologist and comparative anatomist. At Vienna, Lombroso came under the sway of the eminent specialist in internal medicine, Skoda (1805-81), and the writings of the great pathologist, Rokitanski⁵ (1804-78). Lombroso's early interest in psychology also occurred during

Criminal Anthropology and some of Lombroso's considerations of social factors in crime causation; and to Professor Thorsten Sellin for use of his excellent library on Lombroso.

² There is a difference of opinion about the date of his birth. See Mannheim, *Lombroso and His Place in Modern Criminology*, 28 SOCIOLOGICAL REV. 31 (1936). The present author agrees with Mannheim that Nov. 6, 1835, is correct.

³ These works of Lombroso were published a little later, however: *Saggio sulla Storia della Repubblica romana*, estratto di pag. 57, COLLETTORIO DELL'ADIGE (Verona: Antonelli 1852); and *Schizzi di un quadro storico dell'antica agricoltura in Italia*, Id. (1853).

⁴ Emphasized in KURELLA, CESARE LOMBROSO, A MODERN MAN OF SCIENCE 7 (Paul transl. 1910).

⁵ Rokitanski was best known for his *PANTHOLOGISCHEN ANATOMIE* (Wien 1855).

his year at the University of Vienna, and this interest evolved into an abiding professional concern with psychiatry that was sustained by close study of the anatomy and physiology of the brain. Although not clinically trained in psychiatry, he was acquainted with the writings of men whose works undoubtedly loomed large in the emergence of his later writings both in medical and criminal treatises. During his student days Lombroso found himself increasingly in disagreement with the free-will philosophy then current in Italian academic circles, and correspondingly his thinking was shaped in large measure by the French positivists, the German materialists, and the English evolutionists. Auguste Comte (1798-1853), who introduced the term "sociology" but who based many of his ideas on biology and even found reason to support Gall (1758-1824), had published his *Positive Philosophy* (1839-42) and *Positive Polity* (1851-54) during Lombroso's formative years and played no small role in the latter's scientific orientation.⁶

In 1858, the year he received his medical degree, Lombroso became increasingly concerned with cretinism and pellagra, which for two centuries or more had been endemic in Upper Italy. In 1859 the results of his first research on cretinism, which constituted his doctoral thesis, were published.⁷ In that same year he volunteered for medical service in the army and through 1863 served in various posts, including an interesting period in Calabria, as an army physician. During peacetime he began systematic measurement and observation of 3000 soldiers, seeking to analyze and to express metrically the physical differences which he had noted among the inhabitants of the various regions of Italy. From this experience were derived his observations on tattooing, particularly the more obscene designs which he felt distinguished infratious soldiers. This practice of tattooing he subsequently identified as characteristic of criminals.

While being quartered during peacetime in Pavia, he had ample opportunity to pursue his interest in clinical psychiatry. He received permission to study clinically the mental patients in the hospital of S. Euphemia. In 1862 he presented a series of lectures in psychiatry and anthropology

⁶ Godwin has probably gone too far in saying that Comte was Lombroso's "scientific godfather." GODWIN, CRIMINAL MAN 6 (1957).

⁷ Lombroso, *Ricerche sul cretinismo in Lombardia*, GAZZETTA MEDICA ITALIANA LOMBARDA, N. 31 (Milano 1859).

in that institution. His "Introduction to the Clinical Course on Mental Diseases" was published in 1863 and was the first paper he wrote about pellagra, genius, and crime examined in relationship to insanity. The next year saw the publication of another lecture entitled "Genius and Insanity,"⁹ the germ for which had appeared in his essay "On the Insanity of Cardano,"¹⁰ written as early as 1855, during his student days. This lecture was also the forerunner of his *L'Uomo di genio*, the sixth edition of which appeared in 1894, and of its sequel, *Genio e degenerazione*, which was issued in 1897.

At one time or another during the years from 1863 to 1872, Lombroso was in charge of the insane at hospitals in Pavia, Pesaro, and Reggio Emilia. In 1876 he received his first appointment in legal medicine and public hygiene at the University of Turin, where he later was made professor of psychiatry and clinical psychiatry (1896) and of criminal anthropology (1906), the last of which occurred during the same year that he received the rank of Commandeur de la Légion d'Honneur by the French government, and in which he founded the Museum of Criminal Anthropology. Together with Mantegazza, his colleague and experimental pathologist, Lombroso was instrumental in establishing in Italy the meaning of anthropology in the modern sense.¹¹ That is, as opposed to the Kantian emphasis on descriptive psychology, Lombroso insisted on the use of the experimental method in legal medicine, expressing these views strongly in 1865 in a paper¹² that has been considered an important contribution to forensic medicine.¹³ Similarly, in *Legal Medicine of*

*the Corpse*¹⁴ (1877), his contributions to the methods of identifying the dead body should warrant his being ranked among the innovators of scientific methods in pathology and police work.¹⁵ The year 1880 was a significant one, for it was then that with the assistance of Ferri and Garofalo he founded the *Archivio di Psichiatria e Antropologia criminale*.

Lombroso's interest in criminology stemmed from his work on cretinism and pellagra as well as from his professional psychiatric studies. During the years before his appointment as professor of medicine at the University of Turin, he had been writing serious studies on pellagra¹⁶ that were later to affect his income and relationship with the landed aristocracy in northern Italy.

The deficiency diseases of cretinism and pellagra, he felt, more or less retarded or inhibited normal growth and development of the physical and mental faculties.¹⁷ Moreover, pellagra ("Lombardy erysipelas") in its most severe form often produces, he noted, profound mental changes which may result in violence such as homicide. His early attention to brain pathology is shown in "Some Cases of Lesions of the Central Nervous System" (1861); "Memoir on a Tumor of the Cerebellum" (1863); "Supernumerary Cerebral Convolutions in a Murderer and Satyrst" (1871); and "Existence of a Median Fossette in the Cranium of a Criminal" (1871). The psychiatric aspect of his concern with criminology obviously antedates his paper entitled "On the Criminally Insane in Italy in '68, '69, and '70" (1871). These last two papers, together with the "Anthropometry of 400 Venetian Criminals" (1872) and "Emotions and Passions of Criminals" (1874), are claimed¹⁸ to have been

⁸ Lombroso, *Prelezione al Corso di Clinica di malattie mentali*, GAZZETTA MEDICA ITALIANA LOMBARDA (Milano 1863).

⁹ LOMBROSO, GENIO E FOLLIA, PRELEZIONE AL CORSO DI CLINICA-PSICHIATRICA (Milano 1864).

¹⁰ Lombroso, *Sulla pazzia di Cardano*, GAZZETTA MEDICA ITALIANA LOMBARDA (Milano 1855). Girolamo Cardanus (1501-1575) was a physician and natural philosopher.

¹¹ Physical anthropology, it should be noted, is synonymous with anthropometry and is an integral part of biometrics, for its data generally are to be understood only through the use of statistics.

¹² LOMBROSO, LA MEDICINA LEGALE NELLE ALIENAZIONI MENTALI STUDIATA COL METODO ESPERIMENTALE (Padova 1865); also, Lombroso, *La médecine légale des aliénations mentales étudiée par la méthode expérimentale*, Report to the Société de Marseille in BULLETIN DES TRAVAUX DE LA SOCIÉTÉ IMPÉRIALE DE MÉDECINE DE MARSEILLE (1865).

¹³ See CASTIGLIONI, A HISTORY OF MEDICINE (2d ed. 1947).

¹⁴ LOMBROSO, SULLA MEDICINA LEGALE DEL CADAVERE (Torino 1877).

¹⁵ Cf. CASTIGLIONI, *op cit. supra* note 13.

¹⁶ E.g., LOMBROSO, STUDI CLINICI SPERIMENTALI SULLE CAUSE E TERAPIA DELLA PELLAGRA (Bologna 1869); LOMBROSO, STUDI CLINICI SULLA NATURA, CAUSE E TERAPIA DELLA PELLAGRA (Milano 1870).

¹⁷ Cf. HARRIS, PELLAGRA (1919); SPILLANE, NUTRITIONAL DISORDERS OF THE NERVOUS SYSTEM (1947); Spies, *The Control of Pellagra*, 22 R.I. MED. J. (1949); Spies, Aring, Gelperin & Bean, *The Mental Symptoms of Pellagra, Their Relief with Nicotine Acid*, 196 AM. J. MED. SCI. 461.

¹⁸ These two works were papers that appeared in the Proceedings of the Royal Lombardian Institute of Science and Letters: *Antropometria di 400 delinquenti veneti* V RENDICONTI DEL ISTITUTO LOMBARDO Fasc. xii (1872); and *Affetti e passioni dei delinquenti*, read at the Istituto Lombardo, 1874. Relative to the claim that these two papers constituted the nucleus of L'UOMO DELINQUENTE, see; LOMBROSO-FERRERO, CESARE LOMBROSO, STORIA DELLA VITA E DELLE OPERE [here-

the nucleus for his most important book *L'Uomo delinquente*, first published in 1876. This major work, which we shall later discuss in more detail, went through five editions in Italy, and translations were published in various European languages, although never into English. The second edition (1878) established his reputation beyond Italy. An ideologically expanded version, *Le Crime: causes et remèdes*, appeared in 1899 and gave more attention to socioeconomic factors in crime causation than had his earlier work.

In a posthumous publication,¹⁹ Lombroso indicated the sequence of his interest and activity in criminology as: (1) the background behavior of the tattooed soldiers whom he observed while a physician in the Italian army; (2) the application of physical measurements in his studies of the mentally alienated because of his dissatisfaction with current psychiatric procedures, plus his own recent conclusion that the patient, and not the disease, should be the focus of investigation; (3) the extension of these physical and physiological techniques to the study of criminals—i.e., to the differentiation of criminals from lunatics; and (4) the direct analytical study of the criminal compared with normal individuals and the insane.

Lombroso's personal and domestic life was apparently tranquil. In 1869 when he was 34 years old he married a young 22 year-old Jewish girl from Alexandria who later presented him with two daughters, Paola and Gina. We are told that both because of their bringing into their father's orbit of relationships important socially conscious women, and because of their marriages to professionally related men (Gina to G. Ferrero and Paola, to M. Carrara), they "brought fresh worlds of ideas into contact with that of their father."²⁰ It was with Gina's husband that Lombroso spent many long hours in his laboratory examining the skulls of criminals and with whom he wrote *The Female Offender*.²¹ During Lombroso's later life and their maturity, his daughters performed many tasks for him in his Turin home—reading and

answering much of his correspondence and literature in the growing field of criminal anthropology, translating and unofficially editing his writing and the *Archivio di Psichiatria*. Many visitors from Italy and abroad came to talk, listen, and learn from him as he sat surrounded by the music of Beethoven and Wagner, drawings, sketches, sculpture, prison items, skulls of ancient Peruvians and of modern criminals, his many books, and, perhaps, the model of the famous penitentiary at Philadelphia, which he kept in his museum.²²

Although he was selected as municipal councilor by one of the working-class quarters of Turin and sat in that capacity for several years, Lombroso was never a regular party worker. He ardently believed in the democratic processes, although he thought that parliamentary procedures offered elected representatives too many opportunities to escape responsibility and become "occasional criminals."²³ He favored the socialists' efforts at social reform and was no doubt influenced by Loria's affinity to Marxian political philosophy. But he was opposed to revolution and class war, even excessive control by the common man over the upper classes. The common people, he thought, should have "only so much power as may be necessary to wring from the upper classes the concessions needful for the good of the commonality."²⁴ During his younger years he was much concerned with agrarian problems, because of his study of pellagra and his finding that the disease was caused (so he contended) by the poor quality of maize; he therefore was a passionate opponent of the traditional tariff policy of Italy, the high land taxes, and town dues that offered nothing in return to the tenant farmers or agricultural laborers. His investigations into the causes of pellagra led him to speak frankly and openly about economic interests that produced a maldistribution of quality maize. As a consequence, the powerful agrarian interests of Lombardy and Venice boycotted his consulting practice among the upper middle classes that previously had brought him a sizeable income. His theory regarding the cause of pellagra, like that of his delinquente-nato, is no longer accepted, but the peasant classes of Italy gained his support and sympathy, and his descriptions of the symptoms

inafter called CESARE LOMBROSO] 456-57 (2d ed., Bologna 1921); KURELLA, *op. cit. supra* note 4, at 18.

¹⁹ Lombroso, *Introduction to LOMBROSO-FERRERO, CRIMINAL MAN ACCORDING TO THE CLASSIFICATION OF CESARE LOMBROSO* [hereinafter cited as *CRIMINAL MAN*] (N.Y. 1911).

²⁰ KURELLA, *op. cit. supra* note 4, at 81.

²¹ LOMBROSO, *LA DONNA DELINQUENTE, LA POSTI-TUTA E LA DONNA NORMALE* (in collaboration with G. Ferrero) (Torino 1893). Ferrero is also known for his *HISTORY OF THE ROMAN EMPIRE*.

²² LOMBROSO-FERRERO, CESARE LOMBROSO, *op. cit. supra* note 18, *passim*.

²³ LOMBROSO, *IL DELITTO POLITICO E LE RIVOLUZIONI* 531 (in collaboration with Laschi) (Torino 1890); cited by KURELLA, *op. cit. supra* note 4, at 125-26.

²⁴ Cited by KURELLA, *op. cit. supra* note 4, at 126 n.

of pellagra were added to the annals of medical literature.

Among the cultural factors that contributed to the making of the scholar must be mentioned the collection of official vital statistics and numerous inquiries and parliamentary investigations that occurred in Italy during the last three decades of the nineteenth century. Agrarian investigations made possible his researches into the causes of pellagra; his anthropometrical researches while an army surgeon in Calabria in 1862 were partially dependent upon the available recruiting statistics that made possible a determination of the ethnic composition of the Italian people; and as he expanded his horizon of investigation, he could make use of good statistics elsewhere, such as those in France that had been instigated in the 1830's by M. de Guerry de Champneuf.²⁵ Without these nineteenth century innovations Lombroso's writings would have lacked many of the abundant facts of which he was so proud. The same may be said regarding the opportunities he had as prison physician at Turin to examine clinically thousands of prisoners, for Lombroso was fortunate that the head of the Italian prison administration was an interested scholar and a diligent historian. Beltrani-Scalia²⁶ put at Lombroso's disposal the entire body of official criminal and penal material and opened all Italian prisons to him and his pupils.

The younger men who surrounded the maestro after his growing reputation from the publication of *L'Uomo delinquente* were not only influenced by him but also had an influence on him. The most prominent of these was Enrico Ferri (1856-1929). When only 24, Ferri went to Turin in 1880 to study with Lombroso, to gather the facts that he felt should precede the theories. This was the year that Lombroso started to edit his periodical, the *Archivio di Psichiatria*, and Ferri contributed to the first volume. It was Ferri who coined the term "born criminal" to refer to the atavistic type which Lombroso believed he had identified. "Between Ferri and the twenty years older Lombroso," says Sellin, "there began a deep and lasting friendship marked by mutual respect and profit to both, for while Ferri owed much of his system of ideas to the

stimulation of Lombroso, he also became the catalyst who synthesized the latter's concepts with those of the sociologist and had no little influence on Lombroso's thinking."²⁷

Lombroso's last work, published the year of his death, is a reflection of the interests he pursued during his last years of life.²⁸ We need not dwell here on his excursions into the world of Eusapia Paladino, the medium who had a strong influence on him during this period, and who helped him to "see" and to "hear" the voice of his mother during one of the more successful séances.²⁹ Ferri, Kurella, and other friends of Lombroso experienced some of these sessions with him, and it must have been disheartening for them to see the great seeker of facts being emotionally seduced.³⁰ Again we must remember the times and recall that the period from about 1885 to the end of the nineteenth century was a happy one for mediums and the time for extensive hypnotic experiments. He had opposed spiritualism previously, but after his first sittings with Eusapia Paladino, he wrote in a letter to his friend, Dr. Ciolfi: "I am ashamed and sorrowful that with so much obstinacy I have contested the possibility of the so-called spiritualistic facts. I say the facts, for I am inclined to reject the spiritualistic theory; but the facts exist, and as regards facts I glory in saying that I am their slave."³¹ His friends tried to dissuade him from this interest, "but all this talk did not make me hesitate for a single moment. I thought it my predestined end and way and my duty to crown my life passed in the struggle for great ideas by entering the lists for this desperate cause. . . ."³²

Lombroso was eulogized by his daughters and disciples, by students and scholars throughout the continent and in America, at the Congresses of Criminal Anthropology, and in the subsequent

²⁷ Sellin, *Pioneers in Criminology—Enrico Ferri (1856-1929)*, 48 J. CRIM. L., C. & P. S. 486 (1958).

²⁸ LOMBROSO, *RICERCHE SUI FENOMENI IPNOTICI E SPIRITICI* (Torino 1910). The English version of his studies in spiritualism is entitled, *AFTER DEATH—WHAT?* (Kennedy transl. 1909).

²⁹ *Id.* at 68-69.

³⁰ Kurella was certainly not taken by the work of the medium Eusapia Paladino, for he tells us that one of the séances he attended with Lombroso "was indeed, a 'miracle'—i.e., a miracle of adroitness, false bonhomie, well-simulated candour, naïveté, and artistic command of all the symptoms of hystero-epilepsy." KURELLA, *op. cit. supra* note 4, at 169.

³¹ *Id.* at 175.

³² LOMBROSO, *AFTER DEATH—WHAT?* at v. (Kennedy transl. 1909).

²⁵ See Elmer, *Century-Old Ecological Studies in France*, 39 AM. J. SOC. 63 (1933).

²⁶ One of the best monographs on the history of Italian prisons was written by this capable prison inspector: BELTRANI-SCALIA, *SUL GOVERNO E SULLA RIFORMA DELLE CARCERI IN ITALIA* (Torino 1867).

writings of members of the Italian School he had started. He was also widely and bitterly attacked, however, as we shall later note; but as late as May, 1908, Professor John Wigmore, first president of the American Institute of Criminal Law and Criminology, visited Lombroso and offered him the nomination as Harris Lecturer at Northwestern University for the year 1909-10. Lombroso was interested but could not make the trip because of his advanced age.³³ A few months later, during the early morning of October 19, 1909, the life of the "father of the Italian School" silently passed away, "calma come un fiume che alla sua foce si perde nel mare."³⁴

It is of course impossible to recount all the writers who antedated Lombroso who were precursors of many of his ideas, or who directly or indirectly influenced his own intuitive insights and investigations. In *I Precursori di Lombroso*, Antinori³⁵ performs an admirable service in reviewing the growing body of knowledge that provided a cultural base from Aristotle to Della Porta (1536-1615), and Lavater (1741-1801) to Morel (1809-1873), upon which Lombroso could build his own ideas. Havelock Ellis, in *The Criminal*,³⁶ gives a brief history of the precursors of Lombroso, and in the second chapter, Ellis mentions no less than twenty-two scholars in Europe who had anticipated Lombroso in pointing out the relationship between the criminal's physical and mental characteristics and his behavior. Despite his prevailing theoretical opposition to Lombroso, W. A. Bonger's *An Introduction to Criminology*³⁷ is also a good source for a review of Lombroso's predecessors, both known and unknown to Lombroso at the time of his early criminological investigations. Lombroso himself gives passing attention, not so much to influences

on him as to the men and ideas that preceded him, in "I precursori dell'Antropologia criminale" (1898).³⁸ Also quite useful are Morselli's article on "Cesare Lombroso e l'antropologia generale,"³⁹ Marro's chapter entitled, "Precursori e primordi dell'antropologia criminale,"⁴⁰ the work of De Quirós,⁴¹ Sellin,⁴² Vold,⁴³ and others.⁴⁴

Lombroso knew the works of Esquirol (1772-1840), the outstanding French psychiatrist whose *Traité de Maladies Mentales* first appeared in 1838, and who attempted to distinguish between mental defect and mental disease in his elaboration of Pinel's (1745-1826) *manie sans délire*. Lombroso also knew the works of prominent psychiatrists trained by Esquirol. He was acquainted, *inter alia*, with the writings of Griesinger (1817-68), who influenced German psychiatry toward anatomico-pathological hypotheses, and the Florentine Chiarugi (1759-1820), a leader in the advocacy of more humane treatment of the insane. The two latter writers regarded mental illness as essentially the result of disease or injury of the brain, thus amplifying Morgagni's concept in 1760 that insanity is an organic disturbance.⁴⁵

B. A. Morel (1809-1873), the French alienist, was an important influence on Lombroso. Morel published a theory of degeneracy in his voluminous *Treatise on Degeneracy* in 1857, in which he tried to explain the social phenomena of degeneracy and to classify them empirically by type. Degeneracy, he found, was expressed in epilepsy, insanity, mental deficiency, crime, and similar conditions. He assumed degeneracy to be a pathological phenomenon caused by the interaction of hereditary and environmental factors manifested in both physical and mental deviations from the normal. Morel clearly pronounced that a variety of pathological human types exists in his small monograph *On the Formation of Types*, published in 1864 and containing many of the ideas later developed by the criminal anthropologists. It was Morel who suggested that the new science of human pathology

³⁸ *I precursori dell'Antropologia criminale*, ARCHIVIO DI PSICHIATRIA (1898).

³⁹ E. Morselli, *Cesare Lombroso e l'antropologia generale*, L'OPERA DI CESARE LOMBROSO NELLA SCIENZA E NELLE SUE APPLICAZIONI 1-31 (Torino 1908).

⁴⁰ A. Marro, *Precursori e primordi dell'antropologia criminale*, *id.* at 175-92.

⁴¹ DE QUIRÓS, MODERN THEORIES OF CRIMINALITY, 1-79 (De Salvio transl. 1911).

⁴² Sellin, *En historik återblick*, AGGE, KRIMINOLOGI ch. 1 (Stockholm 1955).

⁴³ VOLD, THEORETICAL CRIMINOLOGY (1958).

⁴⁴ *Infra* under subsequent section.

⁴⁵ See CASTIGLIONI, *op. cit. supra* note 13.

³³ Parmelee, *Introduction to LOMBROSO, CRIME: ITS CAUSES AND REMEDIES*, at xiii (Boston 1912) [hereinafter cited as CRIME: ITS CAUSES AND REMEDIES].

³⁴ LOMBROSO-FERRERO, CESARE LOMBROSO, *op. cit. supra* note 18, at 425. A victim of cardiac complications, he lost consciousness around 2 a.m. and died at 5 a.m. on October 19, 1909. According to his will, his body was taken to the laboratory of legal medicine, and an autopsy was performed (by Professor Tovo instead of Lombroso's son-in-law, M. Carrara). His brain was placed in the Institute of Anatomy.

³⁵ ANTINORI, I PRECURSORI DI LOMBROSO (Torino 1900).

³⁶ ELLIS, THE CRIMINAL (4th ed. 1913). This book had a wide sale both abroad and in America, and makes clear the fact that Lombroso, inspired by the evolutionary theories of Darwin, was only following out lines of thought long before suggested by European scholars.

³⁷ BONGER, AN INTRODUCTION TO CRIMINOLOGY (Van Loo transl., London 1936).

be called "morbid anthropology." There is no doubt, says Sellin, that Morel's ideas had great influence on the thinking of Lombroso. Such belief is confirmed by Lombroso's reference⁴⁶ to Morel that some anatomical anomalies of the criminal are indicative of degeneration.

Among the currents of thought that contributed to the thinking and writing of Lombroso which must be mentioned, in addition to Comte's positivism and biological basis for his sociology, is Darwin's epochal *Origin of Species* (1859), published at the beginning of Lombroso's professional career. *The Descent of Man* appeared in 1871, and the *Expression of Emotion in Man and Animals* in 1872. *The Descent* contains, besides Darwin's observations, information from medicine, philology, sociology, and anthropology. *The Expression* extends the comparisons of the *Descent* further into the emotional and mental life of animals and man. Together with publications which criticized or expounded the hypotheses of these two books, Darwin's theories exerted a deep and far-reaching influence on the writings of Lombroso.⁴⁷ Meantime, T. H. Huxley was basing his inferences on extensive comparative studies of embryology, the skeletal system, the brain, other viscera, and general bodily structure; he concluded in *Man's Place in Nature* (1863): "Thus, whatever system of organs he studied, the comparison of their modifications in the ape series leads to one and the same result—that the structural differences which separate Man from the Gorilla and the Chimpanzee are not so great as those which separate the Gorilla from the lower apes. . . ." Slightly earlier, Schaaffhausen (1858) inferred, after studying the newly-discovered skeleton of Neanderthal Man, that its morphologic peculiarities indicated it belonged to a "barbarous and savage race" and represented the earliest inhabitants of Europe. Virchow, the renowned German pathologist who displaced Rokitanski, considered the specimen to be that of an idiot and the result of a pathologic process.

There is no doubt that Rudolf Virchow (1821–1902) had an important influence on Lombroso. Virchow, who coined the aphorism, "every cell from a cell," published his *Cellular Pathology* in 1856 and analyzed disease and diseased tissues from the viewpoint of cell formation and cell structure. He spoke of the evolution of man from lower

animals, of organic regression, and of the fact that the individual may revert on the moral level to standards of lower animals, or at least to the stage of man's prehistory. Virchow's reference to thero-morphism, a term he used to denote the presence in man of certain bodily peculiarities of one of the lower animals, played a significant role in Lombroso's belief that he had discovered such a condition in the skulls of certain criminals. Lombroso also adhered to, and made use of, the "fundamental biogenetic law," the law of recapitulation, which was formulated by Haeckel (1834–1919) ten years before the appearance of Lombroso's *L'Uomo delinquente*. Haeckel maintained that ontogeny recapitulates phylogeny, and this idea was incorporated by Lombroso into his parallelism between the criminal and the child.

It was Paul Broca (1824–1880), the French neurologist and pathologist, who defined anthropology as the "natural history of man" as elucidated by the "zoological method," and who founded the *Société d'anthropologie de Paris* in 1859 and the *Revue d'anthropologie* (1872). He had earlier gained fame with his announcement that he had discovered and localized the center for articulate speech in that region of the brain since known as "Broca's speech area." Moreover, Broca had originated methods of classifying hair and skin color, and of establishing the ratio of brain to skull—information that was later to be of use to Lombroso.

It is difficult to determine the degree to which predecessors of Lombroso affected his thinking regarding the physiognomic, physiologic, or psychologic aspects of the criminal. In his investigations as prison physician at Turin, Lombroso minutely examined as many as two hundred prisoners a year and subjected many more to ordinary clinical observation. It was in the course of these investigations, we are told,⁴⁸ that Lombroso first became acquainted with the work of his predecessors. Although he should not be denied credit for his originality and insight, there can be little argument that the intellectual stage was established for his probing inquiries into criminal behavior. F. G. Gall (1758–1828), under joint authorship with G. Spurzheim (1776–1832), had written *Anatomie et physiologie du système nerveux en général et du cerveau en particulier* (1810–1820), and Spurzheim had authored *Phrenology in Connection With the Study of Physiognomy* (1826). According

⁴⁶ E.g., LOMBROSO, L'HOMME CRIMINEL 542 (Paris 1887) [Hereinafter cited as L'HOMME CRIMINEL]. This is the French edition of L'UOMO DELINQUENTE.

⁴⁷ KURELLA, *op. cit.* supra note 4, at 116.

⁴⁸ *Id.* at 13.

to the theory of phrenology (craniology), each function has its organic seat in the brain, and the external signs of these mental functions are observable on the skull, as, for instance, the "bump" of theft, that of alcoholism, etc. It should be noted, however, that Lombroso, along with other critics of phrenology, had correctly evaluated Gall's ideas as early as 1853, when he was only eighteen years of age, and had written a brief work on the relationship between sexual and cerebral development.⁴⁹

Although his early investigations may have been performed without the benefit of knowledge of all his predecessors, Lombroso could hardly help becoming aware of important works like those of H. Lauvergne (1797-1859), who worked at the prison of Toulon and wrote *Les forçats considérés sous le rapport physiologique, moral et intellectuel* (1841); J. C. Prichard (1786-1846), the English anthropologist who elaborated on the meaning of "moral insanity" and authored *A Treatise on Insanity* (1835); P. Lucas (1805-85), who, in his *Traité philosophique et physiologique de l'hérédité naturelle* (1847), contended that some kind of criminal tendency is present from the moment of birth, and that this tendency is hereditary; E. Dally (1833-87), who pointed out, in *Considérations sur les criminels au point de vue de la responsabilité* (1863), that crime and insanity are two forms of organic and mental decay; G. Wilson, the Englishman to whose paper "The Moral Imbecility of Habitual Criminals as Exemplified by Cranial Measurements" (1869) Lombroso gives much credit; J. Bruce Thomson (1810-73), the Scottish alienist, who summarized his observations on over 5000 prisoners in "On the Hereditary Nature of Crime" (1870), published in the *Journal of Mental Science*; H. Maudsley (1835-1918), widely known for his *Crime and Insanity* (1872), and *Responsibility in Mental Disease* (1874); P. Despine (1812-1892), often referred to as the founder of criminal psychology and whose chief work, *Psychologie naturelle* (1868), refers to moral anomalies that stem from an organic cause; Herbert Spencer (1820-1904), whose *First Principles* appeared in 1862, and who was largely responsible for development of evolutionary theory in social thought; and many others that space prevents our listing here.⁵⁰

⁴⁹ Lombroso, *Di un fenomeno fisiologico comune ad alcuni neurotici ed imenotteri*, COLLETTORE DELL'ADIGE (Verona 1853); cited by KURELLA, *op. cit. supra* note 4, at 17.

⁵⁰ Most of these cursory references to Lombroso's

It should be noted that Lombroso seems not to have been acquainted with—or at least not directly affected by—the writings of the Philadelphia physician, Benjamin Rush (1745-1813), which include an essay on "The Influence of Physical Causes upon the Moral Faculty" (1786) and his significant *Diseases of the Mind* (1812). In the essay Rush suggested that the total absence of a moral sense be called *anomia*, and then proceeded to discuss the effect of climate, diet, alcoholic drinks, hunger, diseases, etc., on the moral faculty. Moreover, although Lombroso made some use of the work of Guerry (1802-66) and Quetelet (1796-1874), there is no trace of a line of historical continuity between the "cartographic" or "geographic" method of analysis that Guerry introduced in his *Essai sur la statistique morale de la France* (1833) and the writings of Lombroso. Nor can we find evidence of any real effect that Quetelet's "social physics," in his *Essai de physique sociale* (1835), may have had upon Lombroso, although he does make three minor references to Quetelet in *Crime: Its Causes and Remedies*.⁵¹

In summary, then, we may say that Lombroso was primarily influenced by a German materialism that increasingly sought objective fact in opposition to the "natural philosophy" that had characterized the two preceding generations; by a Comtian positivism that demanded *positive* facts in abundance (regardless of the extent of their immediate relatedness to one another) and that saw the importance of biological factors underlying social phenomena; and by a Darwinian biological evolutionary theory that was eloquently extended into social evolution by Spencer. Within the intellectual climate established by these movements, Lombroso studied, practiced, investigated, and taught. He fell heir to the growing body of medical, clinical, psychiatric literature that dealt directly and peripherally with the criminal. From this knowledge he gained a perspective and theoretical orientation; to this knowledge he added new, exciting, and controversial dimensions.

ATAVISM AND THE CLASSIFICATION OF CRIMINALS

The ideas, investigations, and detailed voluminous analyses of Lombroso have been reviewed

predecessors and contemporaries who expressed similar or related ideas have been gleaned from works previously mentioned, such as: LOMBROSO-FERRERO, CESARE LOMBROSO, *op. cit. supra* note 18; ELLIS, *op. cit. supra* note 36; BONGER, *op. cit. supra* note 37; DE QUIRÓS, *op. cit. supra* note 41; ANTINORI, *op. cit. supra* note 35.

⁵¹ See LOMBROSO, *CRIME: ITS CAUSES AND REMEDIES*

so often in criminological literature that it is both unnecessary and impossible to present all of this material here in abridged form. We shall discuss only highlights of his ideas regarding the criminal and shall refer to sources for further details. Our task is not to point out the abundant fallacies of his reasoning, but to review his theories and arguments.

His general theory suggested that criminals are distinguished from non-criminals by the manifestation of multiple physical anomalies which are of atavistic or degenerative origin. The concept of atavism (from Latin: *atarus*, ancestor, great-great-grandfather's father; *avus*, grandfather) postulated a reversion to a primitive or subhuman type of man, characterized physically by a variety of inferior morphological features reminiscent of apes and lower primates, occurring in the more simian fossil men, and to some extent preserved in modern "savages." It is additionally implied that atavistic individuals have the mentality of primitive men, that they are biological "throwbacks" to an earlier stage of evolution, and that the behavior of these "throwbacks" will inevitably be contrary to the rules and expectations of modern civilized society. Lombroso later added to this conceptualism the theory of degeneration, which included a pathological condition in the criminal. The degenerate was a product of diseased ancestral elements which ceased to evolve progressively and gave evidence of the process of devolution, so that pathological individuals manifested rudimentary physical and mental attributes of primitive man.

We have previously seen how the general intellectual climate of Europe and the accumulated body of knowledge from physiology, biology, outdated physiognomy and phrenology, and even psychiatry converged in the training and experience of Lombroso to give birth to his emerging insights regarding the nature and causes of criminal behavior. The idea of atavism, of a reversion to an earlier phylogenetic level of development was expressed by Darwin when he said: "With mankind some of the worst dispositions which occasionally without any assignable cause make their appearance in families, may perhaps be reversions to a savage state, from which we are not removed by very many generations. This view seems indeed recognized in the common expression that such men are the black sheep of the family."⁵² But specifically, the notion occurred to Lombroso

earlier: "The first idea came to me in 1864, when, as an army doctor, I beguiled my ample leisure with a series of studies on the Italian soldier. From the very beginning I was struck by a characteristic that distinguished the honest soldier from his vicious comrade: the extent to which the latter was tattooed and the indecency of the designs that covered his body."⁵³

Dissatisfied with abstract judicial methods of studying crime, and desirous of applying the experimental method to a study of differences between lunatics, criminals and normal individuals, Lombroso began examining criminals in Italian prisons. He became acquainted with the famous brigand, Vilella, and found him to be a man of extraordinary agility, cynicism, and exceptional braggadocio. On the death of this brigand, Lombroso was appointed to make the postmortem examination, and on opening the skull he found on the interior of the lower back part a distinct depression which he named the *median occipital fossa*, a characteristic found in inferior animals, and a depression correlated with an overdevelopment of the *vermis*, known in birds as the middle cerebellum. In reviewing this and similar moments in his life he says:⁵⁴

"This was not merely an idea, but a revelation. At the sight of that skull, I seemed to see all of a sudden, lighted up as a vast plain under a flaming sky, the problem of the nature of the criminal—an atavistic being who reproduces in his person the ferocious instincts of primitive humanity and the inferior animals. Thus were explained anatomically the enormous jaws, high cheek-bones, prominent superciliary arches, solitary lines in the palms, extreme size of the orbits, handle-shaped or sessile ears found in criminals, savages, and apes, insensibility to pain, extremely acute sight, tattooing, excessive idleness, love of orgies, and the irresistible craving for evil for its own sake, the desire not only

⁵³ Lombroso, *Introduction*, *op. cit.* *supra* note 19, at xii.

⁵⁴ *Id.* at xiv-xvi. The description of this same episode was made by Lombroso in his opening speech at the Sixth Congress of Criminal Anthropology at Turin in April, 1906. In this speech the month is changed from November to December for the time when he examined Vilella, and the declaration of his having resolved the problem of the origin of the criminal is more pronounced: "At the sight of these strange anomalies I saw, as on a large plain under a red horizon, the solution of the problem of the nature and of the origin of the delinquent; the characteristics of the primitive man and of the animals reproduced in our day." *Opening Address*, *COMPTES RENDUS DU VI^e CONGRES INTERNATIONAL D'ANTHROPOLOGIE CRIMINELLE*, at xxxii-xxxvi (Turin).

179, 182, 185 (Horton transl. 1912). [Hereinafter cited as *CRIME: ITS CAUSES AND REMEDIES*.]

⁵² DARWIN, *DESCENT OF MAN* 137 (2d ed. 1881).

to extinguish life in the victim, but to mutilate the corpse, tear its flesh, and drink its blood.

"I was further encouraged in this bold hypothesis by the results of my studies on Verzeni, a criminal convicted of sadism and rape, who showed the cannibalistic instincts of primitive anthropophagists and the ferocity of beasts of prey.

"The various parts of the extremely complex problem of criminality were, however, not all solved hereby. The final key was given by another case, that of Misdea, a young soldier of about twenty-one, unintelligent but not vicious. Although subject to epileptic fits, he had served for some years in the army when suddenly, for some trivial cause, he attacked and killed eight of his superior officers and comrades. His horrible work accomplished, he fell into a deep slumber, which lasted twelve hours and on awaking appeared to have no recollection of what had happened. Misdea, while representing the most ferocious type of animal, manifested, in addition, all the phenomena of epilepsy, which appeared to be hereditary in all the members of his family. It flashed across my mind that many criminal characteristics not attributable to atavism, such as facial asymmetry, cerebral sclerosis, impulsiveness, instantaneousness, the periodicity of criminal acts, the desire of evil for evil's sake, were morbid characteristics common to epilepsy, mingled with others due to atavism."

As we have noted, his early ideas of a theory of the criminal man were published in proceedings of the Royal Lombardian Institute of Science and Letters in 1872 and 1874.⁵⁵ In 1876 a full discussion of atavism and the criminal man appeared in the first edition of *L'Uomo delinquente*, published in Milan by Hoepli. It comprised only one volume of 252 pages and received relatively little attention. The second edition, published in 1878, gained him a wide reputation. Still one volume, it was now 740 pages. In 1887 the French edition, *L'Homme criminel*, and the German edition, *Der Verbrecher*, appeared and disseminated his ideas abroad. By 1889, with the accumulation of many new measurements of criminal skulls, etc., *L'Uomo delinquente* appeared in two volumes comprising 1,241 pages (vol. 1, 660 pages; vol. 2, 581 pages). And in the fifth and final edition, published in 1896 (vol. 1, 650; 2, 576) and 1897 (vol. 3, 677), the three vol-

umes totaled 1,903 pages. To these was added *Le crime: causes et remèdes* (527 pages) in 1899. More than the addition of thousands of new measurements appeared in the last edition, for, as would be expected, changes occurred in his thinking to modify his original pronouncements of the atavistic criminal type. These modifications principally took the form of increasing emphasis upon the element of degeneration and the commonality among the criminal, the insane, and the epileptic. He came to designate the epileptic criminal, the insane criminal, and the born criminal as separate types, all stemming from an epileptoid base. Critics and friends alike, particularly Ferri, were later to suggest to him that "the congenital epileptoid criminal did not form a single species, and that if this class was irretrievably doomed to perdition, crime in others was only a brief spell of insanity, determined by circumstances, passion, or illness."⁵⁶

Lombroso had spent many long years assembling his material, making literally thousands of post-mortem examinations or anthropometric studies of criminals, of the insane, and of normal individuals. In order to find the origin of the atavistic phenomenon he studied what he believed to be the evolution of crime in the animal kingdom, among uncivilized races, and finally—by using Haeckel's concept of recapitulation—in the child. Lombroso became convinced that the criminal was not a variation from a norm but practically a special species, a subspecies, of man, having distinct physical and mental characteristics. Among these physical stigmata are included the following:⁵⁷

"Deviation in head size and shape from the type common to the race and region from which the criminal came; asymmetry of the face; excessive dimensions of the jaw and cheek bones; eye defects and peculiarities; ears of unusual size, or occasionally very small, or standing out from the head as do those of the chimpanzee; nose twisted, upturned, or flattened in thieves, or aquiline or beaklike in murderers, or with a tip rising like a peak from swollen nostrils; lips fleshy, swollen, and protruding; pouches in the cheek like those of some animals; peculiarities of the palate, such as a large central ridge, a

⁵⁶ Lombroso, *Introduction*, *op. cit. supra* note 19, at xvii.

⁵⁷ This summarized list is adequate for our purposes and is a partial listing adapted from the basic work of LOMBROSO-FERRERO, *CRIMINAL MAN*, *op. cit. supra* note 19, at 10-24; is summarized by GILLIN, *CRIMINOLOGY AND PENOLOGY* 79 (3rd ed. 1945); and appears in VOLD, *THEORETICAL CRIMINOLOGY* 50-51 (1958).

⁵⁵ See *supra*, note 18. For a good discussion of the first edition of *L'UOMO DELINQUENTE*, see the article by Marro, *op. cit. supra* note 40, at 193-203.

series of cavities and protuberances such as are found in some reptiles, or cleft palate; abnormal dentition; chin receding, or excessively long or short and flat, as in apes; abundance, variety, and precocity of wrinkles; anomalies of the hair, marked by characteristics of the hair of the opposite sex; defects of the thorax, such as too many or too few ribs, or supernumerary nipples; inversion of sex characteristics in the pelvic organs; excessive length of arms; supernumerary fingers and toes; imbalance of the hemispheres of the brain (asymmetry of cranium):."

In summarizing the anatomical study of the criminal he pointed out that his studies show "new analogies between the insane, savages, and criminals. The prognathism, the hair abundant, black and frizzled, the sparse beard, the skin very often brown, the oxycephaly, the oblique eyes; the small skull, the developed jaw and sygomias, the retreating forehead, the voluminous ears, the analogy between the sexes, a greater reach, are new characteristics added to the characteristics observed in the dead which bring the European criminals nearer to the Australian and Mongolian type. . . ." ⁵⁸ He even believed that it was possible to distinguish special types of delinquents, and as early as 1874, two years before publication of *L'Uomo delinquente*, he said that

"as a rule, the *thieves* have mobile hands and face; small, mobile, restless, frequently oblique eyes; thick and closely set eyebrows; flat or twisted nose; thin beard; hair frequently thin; almost a receding brow. Both they and those committing *rape* frequently have ears *ad ansa*. The latter often have brilliant eyes, delicate faces, and tumid lips and eyelids; as a rule they are of delicate structure and sometimes hunch-backed. . . . The *habitual homicides* have cold, glassy eyes, immobile and sometimes sanguine and inflamed; the nose, always large, is frequently acquiline or, rather, hooked; the jaws are strong, the cheekbones large, the hair curly, dark, and abundant; the beard is frequently thin, the canine teeth well developed and the lips delicate; frequent nystagmus and unilateral facial contractions, with a baring of the teeth and a contraction of the jaws. . . . In general, *all criminals* have ears *ad ansa*, abundant hair,

thin beard, prominent frontal sinuses, protruding chin, large cheekbones, etc." ⁵⁹

In addition to physical stigmata, Lombroso noted in the born criminal (a term, as we have mentioned, coined by Ferri) such factors as: (1) sensory and functional peculiarities, including less sensibility to pain and touch, more acute sight, less than average acuteness of hearing, smell and taste, greater agility, more abidexterity, greater strength in the left limbs; (2) a lack of moral sense, including an absence of repentance and remorse, or only from hypocritical motives, the presence of cynicism, treachery, vanity, impulsiveness, vindictiveness, cruelty, idleness, participation in orgies, possessing a passion for gambling; and (3) other manifestations, such as a special criminal argot, or slang, the tendency to express ideas pictorially and the extensive use of tattooing. ⁶⁰

As his analyses continued, Lombroso came to believe that the moral imbecile and the criminal were fundamentally alike in physical constitution and mental characteristics. His atavistic theory had been subjected to wide criticism and to further accumulation of more facts. Many of the anomalies that he had found in the criminal could not be explained by atavism, and he searched for some other pathological condition that caused the arrested development of certain organs, particularly the nerve centers. He finally identified this condition with epilepsy, as he points out in the last edition of his work: "The fusion of criminality with epilepsy and with moral insanity alone could explain the purely pathological and non-atavistic phenomena in the delinquent." ⁶¹ Epilepsy becomes the "uniting bond," the morbid condition that unites and bases the moral imbecile and the born criminal in the same natural family. ⁶² Although all born criminals are epileptics, not all

⁵⁹ *Della fossetta cerebellare mediana in un criminale*, R. Ist. LOMBARDO DI SCIENZA E LETTERE—RENDICONTI 1058-65 (1872); cited and translated by Sellin, *A New Phase of Criminal Anthropology in Italy*, 125 Annals 234 (May, 1926).

⁶⁰ 1 LOMBROSO, *L'UOMO DELINQUENTE* 388-568 (5th ed. 1897) (hereinafter cited as *L'UOMO DELINQUENTE*). These traits of the born criminal may also be found in most other editions of the same work, *passim*, and in the English summary, LOMBROSO-FERRERO, *CRIMINAL MAN*, *op. cit. supra* note 53, at 24-48. See also, and in summary, Lombroso's description of atavism in *CRIME: ITS CAUSES AND REMEDIES* 365-69. However, it must be kept in mind that by the time of this last writing he had modified his ideas to include other types of criminals and had reduced his emphasis on the *delinquente-nato*.

⁶¹ 1 *L'UOMO DELINQUENTE* 59 (5th ed.).

⁶² 2 *L'HOMME CRIMINEL* 50.

⁵⁸ 1 *L'HOMME CRIMINEL* 222; cited by Parmelee, *op. cit. supra* note 33.

epileptics are necessarily born criminals. By this time in his writings, he no longer saw the born criminal only in terms of an atavistic return to the savage; he spoke also of arrested development and disease, and combined both atavism and degeneration in his analysis of the etiology of the born criminal⁶³—a combination that many scholars, including E. A. Hooton, were to take issue with later.

In addition to the epileptic criminal, the insane criminal, and the born criminal, Lombroso refers, in his later editions, to a large corps of occasional criminals.⁶⁴ These criminals "are those who do not seek the occasion for the crime but are almost drawn into it, or fall into the meshes of the code for very insignificant reasons. These are the only ones who escape all connection with atavism and epilepsy. . . ."⁶⁵ Although the first part of this statement from his last major work (which considers environmental factors in some detail) is consistent with earlier remarks about the occasional criminal, the last part does not conform to his summary diagram in the 5th edition of *L'Uomo delinquente* that tries to show the relationship among his various criminal types. At any rate, the first group of occasional criminals is that of the pseudo-criminals, or those who commit crimes involuntarily, whose acts are not perverse or prejudicial to society but crimes so defined by law, committed in defense of the person, of honor, or of family. These crimes do not cause societal fear, nor do they disturb the moral sense of the community.

The next and largest group of occasional criminals is the criminaloids. In their case precipitating factors in the environment, or opportunities to commit crimes, constitute the most important elements in their etiology. Opportunities offered for fraud, the associate of the prison, and other unfavorable exogamous factors lead this group to crime. The criminaloid, nonetheless, possesses innate traits that tend to cause him to be only slightly less predisposed to criminality. His organic tendency is less intense than that of the born criminal, and he has only a touch of degeneracy. "In the biology of the criminaloid we observe a smaller number of anomalies in touch, sensibility to pain, psychometry, and especially less early baldness and grayness, and less tattooing. . . . Criminaloids, then, differ from born criminals in

degree, not in kind. This is so true that the greater number of them, having become habitual criminals, thanks to a long sojourn in prison, can no longer be distinguished from born criminals except by the slighter character of their physical marks of criminality."⁶⁶

The habitual criminal constitutes the third group of occasional criminals, and it is this group that seems to come closest to a "normal" criminal in all his writings, for the habitual criminal was born without serious anomalies or tendencies in his constitution that would predispose him to crime. Poor education and training from parents, the school, and community at an early age causes these individuals "to fall continually lower into the primitive tendency towards evil." Associations of criminals such as the mafia and camorra in Italy contain members drawn into crime by association.⁶⁷ Finally, among the *delinquente d'occasione* Lombroso mentions briefly a class of epileptoids in whom a trace of epilepsy may form the basis for the development of their criminal tendencies.

There is another category of criminals, one that lies outside the general base of epilepsy. Crimes of violence, based not upon conditions arising from the nature of the organism but often from "anger, platonic or filial love, offended honor, which are usually generous passions and often sublime," characterize the "irresistible force" manifested by the "delinquente d'impeto o passione." Political criminals are included under this classification, and characteristics such as a powerful intellect, exaggerated sensibility, great altruism, patriotic, religious, or even scientific ideals, are described as significant factors. Finally, the high frequency of suicide among criminals of passion indicates, he felt, a pathological state of mind.⁶⁸

In order to show the relationship between these groups, Lombroso presented a diagram, which is reproduced here, in which all the delinquents, regardless of type, were placed on an "epileptoid" base.

Lombroso considered the female offender in virtually the same terms used in his analyses of males. His first edition of *La donna delinquente, la prostituta e la donna normale*, written in collaboration with his son-in-law, G. Ferrero, appeared in 1893, after which a new edition was published in

⁶³ *Id.* at 374.

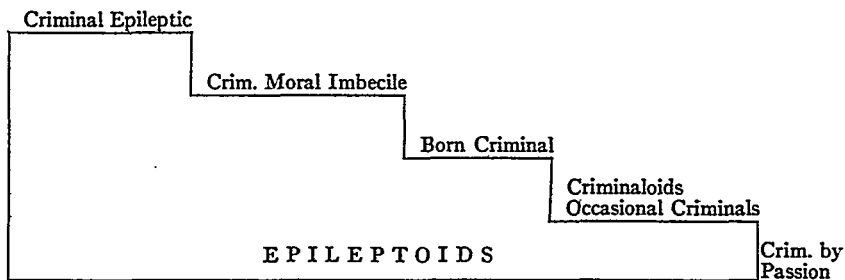
⁶⁷ Is there not here the suggestion of Sutherland's concept of "differential association"? Cf. SUTHERLAND, *PRINCIPLES OF CRIMINOLOGY* (4th ed. 1947).

⁶⁸ 2 *L'UOMO DELINQUENTE* 204-65 (5th ed.).

⁶³ 1 *L'UOMO DELINQUENTE* 62-68 (5th ed.).

⁶⁴ *Id.* at 482-564.

⁶⁵ *CRIME: ITS CAUSES AND REMEDIES* 376.



LOMBROSO, 2 *L'UOMO DELINQUENTE* 60 (5th ed. 1896.)

1903 and translated into several languages.⁶⁹ He emphasized that anatomically there is much less variability among women in general and that deviations from type are more significant than similar deviations occurring in men. Moreover, he noted that there was less general sensibility and less sensibility to pain among women compared to men.

Women are very much like children in many respects, he suggests, and by use of historical and some ethnological materials he proceeds to show that prostitutes and prostitution represent reversionary or atavistic phenomena. The intimate descriptions he gives of the psychical life of the prostitute led him to conclude that the born criminal type is found more frequently among prostitutes than among other female offenders. The prostitute, even more than the homicidal robber, is the genuine typical representative of criminality. With his usual detailed descriptions of Darwin's tubercle, sessile ears, alveolar prognathism, and many case studies, he attempts to show that genuine women criminals are endowed with the same fundamental peculiarities found in male criminals, and that prostitutes and other genuine criminal feminine types (*rea nata*) are characterized by a lack of the "mother-sense." By the time he had written the fifth edition of *L'Uomo delinquente*, he could still say, however, that "an extensive study of criminal women has shown us that all the degenerative signs, such as functional anomalies, are lessened in them (among the dead as among the living), and are closer to the normal type of women. They seem to escape therefore from the atavistic laws of degeneration."⁷⁰

Consideration is given in *The Female Offender* to pathological anomalies, investigations of female

brains, anthropometry, facial and cephalic anomalies, atavistic origins, tattooing, the born criminal, occasional criminals, hysterical offenders, crimes of passion, suicides, criminal lunatics, epileptic delinquents and moral insanity. Although he asserts that female born criminals are fewer in number than male, he contends that the former are much more ferocious. His explanation for their "greater ferocity," although not acceptable today, is succinct:⁷¹

"We have seen that the normal woman is naturally less sensitive to pain than a man, and compassion is the offspring of sensitiveness. If the one be wanting, so will the other be.

"We also saw that women have many traits in common with children; that their moral sense is deficient; that they are revengeful, jealous, inclined to vengeance of a refined cruelty.

"In ordinary cases these defects are neutralised by piety, maternity, want of passion, sexual coldness, by weakness and an undeveloped intelligence. But when a morbid activity of the psychical centres intensifies the bad qualities of women, and induces them to seek relief in evil deeds; when piety and maternal sentiments are wanting, and in their place are strong passions and intensely erotic tendencies, much muscular strength and a superior intelligence for the conception and execution of evil, it is clear that the innocuous semi-criminal present in the normal woman must be transformed into a born criminal more terrible than any man.

"What terrific criminals would children be if they had strong passions, muscular strength, and sufficient intelligence; and if, moreover, their evil tendencies were exasperated by a morbid psychical activity! And women are big children; their evil tendencies are more numerous and more varied than men's, but generally remain latent. When they are awakened and

⁶⁹ The English version, *THE FEMALE OFFENDER*, with an Introduction by W. Douglas Morrison, was first published in 1895, in New York. The edition was re-issued in 1958. (Hereinafter cited as *THE FEMALE OFFENDER*.)

⁷⁰ 2 *L'UOMO DELINQUENTE* 69 (5th ed.).

⁷¹ *THE FEMALE OFFENDER* 150-52.

excited they produce results proportionately greater.

"Moreover, the born female criminal is, so to speak, doubly exceptional, as a woman and as a criminal. For criminals are an exception among civilized people, and women are an exception among criminals, the natural form of retrogression in women being prostitution and not crime. The primitive woman was impure rather than criminal.

"As a double exception, the criminal woman is consequently a monster. Her normal sister is kept in the paths of virtue by many causes, such as maternity, piety, weakness, and when these counter influences fail, and a woman commits a crime, we may conclude that her wickedness must have been enormous before it could triumph over so many obstacles."

Finally, with respect to female crime, he was aware of the common sex differentials reported in criminal statistics. After referring to data collected from England, France, Spain, and other European countries showing much lower percentages of female participation in officially recorded crime, he noted that "aside from these facts many other grave reasons make us suspect that the criminality of women is greater than the statistics show."⁷² Furthermore, he was convinced that "if cases of prostitution are included in the criminal statistics the two sexes are at once placed on an equality, or the preponderance may even be thrown on the side of women."⁷³

In sum, it is obvious that Lombroso experienced a change of ideas regarding his criminal typology. The excessive emphasis in his first edition to anatomical and anthropometric data was the result of a single framework of orientation. Consequently, by focusing attention on skull measurements, facial asymmetries, etc., he distinguished but one type of criminal—the born criminal—and this type led to a unilateral theory of atavism. But by the time later editions were published he had expanded his theory as well as his investigations, so that now he could adopt the concept of degeneracy as one of the causes of criminality. Pathological similarities between the born criminal, the moral imbecile, and the epileptic broadened his base and added the insane criminal and the epileptic criminal; the criminaloid, by a quantita-

tive difference from the born criminal, and resulting more from precipitating factors than from predisposing ones, became another category; and the pseudo-criminal, the habitual criminal, and the criminal by passion lifted Lombroso considerably beyond his original monistic descriptions of the atavistic offender. He considered atavism as a possible form of degeneracy, and although biologists have challenged the theoretical marriage of atavism and degeneracy, we see here evidence of his trying to produce a more catholic conceptualism than the delimited rigidity of the *reo-nato*, the latter of which is usually the basis of attack by most contemporary critics.

Despite his abundant use of reported precision of anthropometric details and statistical descriptions, Lombroso usually gave only general figures for the proportions and diffusions of anomalies among criminal types and only an approximation of the proportion that born criminals constituted among all criminals. In his last edition of *L'Uomo delinquente* he speaks of 40 percent of criminals falling into his category of the born criminal type; and further reduces this proportion to 33 percent in *Crime: Its Causes and Remedies*.⁷⁴ Whether Lombroso believed that all criminal behavior had some organic origin will be discussed briefly later, but there is no doubt that he never completely relinquished his belief in the existence of a born criminal type, albeit the proportion of this type among all criminals was reduced in his latest discussion.

HIS RESEARCH METHODS

It is difficult to find a description of the methods of investigation or analysis that Lombroso used without encountering personalized praise by his contemporaries or supercilious, contemptuous disdain by later environmentalists who either failed to read his writings or simply refused to give cognizance to any of his efforts to employ good research habits. Many of his contemporaries had to examine his material with virtually the same level of statistical training as he possessed, and which some commentators contend was relatively low, even for this period.⁷⁵ Critics of today, of course, can enjoy the kind of statistical sophistication that has continued since the writings of Karl Pearson,

⁷² 2 *L'UOMO DELINQUENTE* 68-69 (5th ed.); *CRIME: ITS CAUSES AND REMEDIES* 365. In his *Introduction* to his daughter's summary, *CRIMINAL MAN*, *op. cit. supra* note 53, at 8, he also says that "born criminals form about one third of the mass of offenders. . ."

⁷⁵ BONGER, *op. cit. supra* note 37, at 69.

⁷² *CRIME: ITS CAUSES AND REMEDIES* 187.

⁷³ *Id.* at 186. Relative to this contention by Lombroso, see POLLAK, *THE CRIMINALITY OF WOMEN* (1950).

whose benefit Charles Goring possessed at the time he engaged in his study of *The English Convict*.

This section makes no pretense of a detailed examination of Lombroso's procedures, his anthropometry, his deductive thought patterns, nor his statistical tables. We are interested only in reviewing briefly typical comments made about his methods, and in demonstrating by way of illustration a few of his obvious faults and some of his virtuous attempts at a valid scientific approach to the understanding of criminal behavior. Without need of much comment errors in method, merely by their presentation, become obvious.

In general terms it may be said that Lombroso used both clinical and historical methods in the collection of factual data from which he deduced his theories of atavism and degeneration. Historical references abound in his many articles and books that seek to provide illustrative material in support of theory. But it is essentially the minute and detailed examination of the individual that characterizes his most basic tool of investigation and of gathering data. Not crime in the abstract, but a study of the criminal himself was the starting point in 1864 of his criminological career. "I began dimly to realize," he says in retrospect, "that the *a priori* studies on crime in the abstract, hitherto pursued by jurists, especially in Italy, with singular acumen, should be superseded by the direct analytical study of the criminal, compared with normal individuals and the insane."⁷⁶ His analysis of the individual offender was, however, of a static, not a processual or dynamic phenomenon. His criminal anthropological approach was surely more comprehensive than that of Virchow, Broca, or Mantegazza, but less experimental and more descriptive. He assumed that congenital and physical characteristics were always ready for observation and could be subjected to statistical treatment. He had, says Kurella, "little inclination for the clinical observation of transient, morbid processes."⁷⁷ The anomalies and stigmata were for Lombroso permanent documents and primary sources of information. He was interested in psychical processes but felt them too elusive for direct observation; hence his emphasis was on a typology based upon organic factors. He sought some kind of invariable uniformity, a principle of universal law among the

phenomena that he noted always recurring in the same manner. Such a goal could be achieved, he felt, by a thorough search for facts—empiric data. It was as if the philosophic sophistry of Italian legalists and German intellectuals provided the historical moment for a negative reaction, a search for raw, naked empiricism.⁷⁸ And it was optimistically believed that the facts, regardless of their apparent unrelatedness at the moment, would eventually accumulate into an emergent theory of universal applicability.

There are, of course, many doubts that could be registered about Lombroso's anthropometry, but we are not prepared to examine this aspect of his methods. Earnest Hooton, certainly no enemy to Lombroso, and who was one of the world's highly reputed physical anthropologists despite his fleeting failure with his venture into criminology, raised serious questions about the validity of the procedural tools of criminal anthropology in its early years. "Lombroso and subsequent investigators," he says when discussing cranial and facial asymmetry, "have, almost without exception, contented themselves with a mere subjective description of the presence or absence and the degree of, such asymmetry, and have not developed any quantitative method of appraising it. . . . Consequently, the validity of Lombroso's conclusions as to the prevalence of cranial and facial asymmetry in the criminal skull is impaired. . . . Anyone who has attempted to master the method of grading non-mensurable morphological development is well aware of the great personal equation which affects such estimates, even of a skilled observer who is not obsessed by a theory."⁷⁹ Although Ferri did not refer specifically to his elder colleague, he spoke of the defects of some of the anthropological data being collected during his day. A careful reading of Lombroso leads one to suspect that Ferri's comments may apply: "One of these defects is the measuring of skulls in order to determine the cranial capacity of

⁷⁶ This generalization is in the same spirit with which Talcott Parsons reviews the development of sociology. After the grand theorists and theoretical speculators of the Spencer era had produced little useful knowledge that could be applied to social situations, a reaction, both negative and crudely empirical, occurred in America during the 1920's and 1930's. See Parsons, *The Present Position and Prospects of Systematic Theory in Sociology*, ESSAYS IN SOCIOLOGICAL THEORY 212-237 (rev. ed.); Parsons, *Some Problems Confronting Sociology as a Profession*, 24 AM. SOC. REV. 547-59 (1959).

⁷⁹ 1 HOOTON, *THE AMERICAN CRIMINAL, AN ANTHROPOLOGICAL STUDY* 12-13 (1939).

⁷⁶ Lombroso, *Introduction*, *op. cit.* *supra* note 53, at xiv.

⁷⁷ KURELLA, *op. cit.* *supra* note 4, at 136.

criminals without knowing anything of the stature and respective ages of the subjects, whereas there is a settled connection between the different anthropological characteristics, the capacity of the skull, for instance, being definitely related to the age and especially to the stature."⁸⁰ If this criticism of metric methods does not apply directly to Lombroso, it surely could apply to the many measurements made by students throughout Europe which he seems to have used with inadequate discrimination as supporting evidence.

In his primary concern with the biological principle in personality, Lombroso did not make much use of the *analytique morale* of Guerry nor of the *physique sociale* of Quetelet, although he did refer to both of these early statisticians in his later works, after being criticized for neglecting such data. However, in view of Lombroso's remarks that he could examine only one type of phenomenon at a time, and in the light of his intellectual integrity and efforts to recognize deficiencies and to change his approach at times, the comments by Lindesmith and Levin seem unjust: "What Lombroso did was to reverse the method of explanation that had been current since the time of Guerry and Quetelet and, instead of maintaining that institutions and traditions determined the nature of the criminal, he held that the nature of the criminal determined the character of institutions and traditions."⁸¹ On this point Lombroso seems to be interpreted correctly by Kurella who said:

"It was quite inevitable that Lombroso's sociological thought should be powerfully stimulated by the view of his opponents that law is a product of the intellectual, not of the organic life of mankind, and that therefore it was not nature that produced criminals, but social and national processes. Thus it became necessary for him to prove . . . that nature makes the criminal, but that society provides the conditions in which the criminal commits

crimes. . .⁸² He viewed it [behavior] in its dependence upon numerous external and internal factors, in part belonging to the organization of the individual and in part to his environment."⁸³

The collection of positive facts—this above all constituted Lombroso's abiding orientation. From facts emerge theory; but the collector of facts even with an embracing hypothesis is usually faced with an *a posteriori* dilemma of interpretation. It is at this level that Lombroso has been challenged, so frequently that documentation would be impossible. As the late John Gillin,⁸⁴ one of the more diligent and historically-oriented American textbook writers, has observed, Lombroso's explanation of criminality on the basis of atavism, which his demonstrated abnormalities were made to prove, was a philosophical deduction not warranted by the facts. Even the friendly Kurella said that "he knew, also, how to demonstrate his results forcibly and vividly; but was less richly endowed with the faculty of sifting his data, and of grouping them in accordance with a natural, and not merely superficial criterion."⁸⁵ Lombroso, we are repeatedly told, was a "slave to facts"; yet, it was under this same slavery that he spoke of the facts of spiritualism with credulity. After his first sittings with Eusapia Paladino he said that he was inclined to reject the spiritualistic theory, "but the facts exist, and as regards facts I glory in saying that I am their slave."⁸⁶ If his acceptance of these "facts" was not the result of senility, it is not difficult to understand why some doubt has been cast upon his definition and interpretation of facts concerned with criminals and criminal behavior. Rash and easy generalizations about atavism and degeneracy deduced from biological anomalies left a vulnerable hiatus between theory and fact. As Merton and Montagu⁸⁷ suggested in their review of Hooton's criminological research, "To insinuate an axiom is not to demonstrate a fact."

Even some of the most ardent advocates of Lombroso complained of his "obvious neglect of critical examination of his sources of information."⁸⁸ His reliance upon cranium measurements and other anthropometric data compiled by

⁸⁰ FERRI, *CRIMINAL SOCIOLOGY* 63 (Kelly & Lisle transl. 1917). For details on the method of criminal anthropological research, see FERRI, *L'OMICIDIO NELL'ANTROPOLOGIA CRIMINALE*, 97 (Torino 1895).

⁸¹ Lindesmith & Levin, *The Lombrosian Myth in Criminology*, 42 AM. J. SOC. 661 (1939). There is some contradiction in the words these authors use when they refer to institutions and traditions determining the "nature" of the criminal and then criticize Lombroso for holding that the nature (biology) of the criminal determines the character of institutions and traditions. Surely the authors do not mean to say that social institutions are primary factors affecting the individual's biology, heredity, or, more loosely, his nature.

⁸² KURELLA, *op. cit. supra* note 4, at 117.

⁸³ *Id.* at 161.

⁸⁴ GILLIN, *CRIMINOLOGY AND PENOLOGY*, 79 (3rd ed. 1945).

⁸⁵ KURELLA, *op. cit. supra* note 4, at 98.

⁸⁶ *Id.* at 175.

⁸⁷ Merton & Ashley-Montagu, *Crime and The Anthropologist*, 42 AM. ANTHROPOLOGIST 384 (1940).

⁸⁸ KURELLA, *op. cit. supra* note 4, at 56.

students over whom he had no control compounded the types of errors Hooton refers to in his discussion of "the personal equation" in such matters. Perhaps, however, critics and zealots alike have been most disturbed by his use of the anecdotal method and the method of analogy in presenting his material. Although providing piquancy and reading interest, they constitute doubtful methodology. Hooton expresses his dissatisfaction explicitly:

"One of the greatest defects of Lombrosian presentation of criminal anthropological data is the sensational anecdotal method which is utilized to clinch arguments. Individual case descriptions are still copiously spread over the pages of most works on criminology. Although these are absolutely essential as the primary sources from which general deductions may be drawn, they are quite useless and misleading when introduced singly into discussions, since it is perfectly evident that they are not random selections or illustrations, but rather special cases chosen to bolster up some particular argument. Generalization from a single case, which is often encouraged by the use of such anecdotes, is wholly unscientific."⁸⁹

The same general remarks may be made about Lombroso's use of analogy. As he compares the criminal type with the insane, and both of these with epileptics he approaches identification on the basis of similarities in the number and kinds of anomalies. "Thus it happened often enough that, perceiving intuitive analogies, his lively imagination led him falsely to regard them as identities."⁹⁰ In his statistical statement of genius, which appears in *L'Uomo di genio* (1888), he derives an "index of genius" by use of analogy and shows his index for every department in France, according to which index the departments are arranged in groups corresponding to department groupings based upon their republican or monarchical character. In additional diagrams, charts, and tables he arranges the French departments according to certain geographical configurations, such as mountains, hills, plains, and the nature of the soil. Then for each group the predominant political affiliations and the "index of genius" are determined. In this questionable fashion he deduces a virtual identity between genius and republicanism.

The use of "laymen's hypotheses" as guides to

scientific research may sometimes be fruitful, if for no other reason than to dispel their tendency to persist, although data collected to test a lay hypothesis may sometimes confirm it.⁹¹ Not only was Lombroso heir to an abundance of old Italian proverbs that implied physiognomic correlations to criminality, but also it seems as if he was to some extent influenced by them as he sought to find physical stigmata that would identify the criminal type. To suggest this is not to indict his methods, but merely to indicate the probable role of provincial thought on his intuitions and insights—an element of methodology that is, after all, as much artistry as science. Creative work in music, poetry, or painting may make use of regional legends, myths, and proverbs; these same sources appear in Lombroso's writings and seem to have contributed to his thinking.⁹² Surely something of this sort must have occurred in the thoughts he expressed at the Fifth Congress of Criminal Anthropology in Amsterdam (1901) when he delivered his paper on "Why Criminals of Genius do not Manifest the Criminal Type," and in which he suggested that "the habit of thinking elevated thoughts gives certain characteristics to the physiognomy, such as a straight brow and a voluminous cranium."⁹³

Probably the most persistent and valid criticism of Lombroso's methods pertains to his use of statistics. It is generally agreed that the chief refutation of Lombroso's work was Charles Goring's *The English Convict*, published in 1913. In this study the author praises Lombroso for his humanitarianism but makes a vitriolic attack upon his research methods. The time that separated *L'Uomo delinquente* and *The English Convict* was

⁹¹ With respect to the use of laymen's hypotheses in sociological research, see Gouldner, *Theoretical Requirements of the Applied Social Sciences*, 22 AM. SOC. REV. 92 (1957).

⁹² In LOMBROSO-FERRERO, *CRIMINAL MAN*, *op. cit.* *supra* note 53, at 49-51, Cesare Lombroso refers to some of these proverbial statements: "There is nothing worse under Heaven than a scanty beard and a colorless face" (Rome); "An ashen face is worse than the itch" (Piedmont); "Greet from afar the red-haired man and the bearded woman" (Venice); "Beware of him who looks away when he speaks to you, and of him who keeps his eyes cast down and takes mincing steps" (Venice); "The squint-eyed are on all sides accursed" (Venice); "Better sell a field and a house than take a wife with a turned-up nose" (Venice). His use of these proverbs was to indicate that they express universal distrust of the criminal type. See also, MACDONALD, *CRIMINOLOGY*, 43 (1893).

⁹³ CONGRÈS INTERNATIONAL D'ANTHROPOLOGIE CRIMINELLE, COMPTERENDU DES TRAVAUX DE LA CINQUIÈME SESSION 215 (Amsterdam 1901).

⁸⁹ HOOTON, *op. cit.* *supra* note 79, at 16-17.

⁹⁰ KURELLA, *op. cit.* *supra* note 4, at 98.

not long, but the development of standard deviations around the mean, regression lines, and probable errors constituted a wide difference indeed. The Biometric Laboratory in London and the prison at Turin were more than kilometres apart. This distance permitted Goring to state that "since this belief of Lombroso's was arrived at, not by methods of disinterested investigation, but, rather by a leap of the imagination, the notion thus reached then forming the basis upon which he conducted his researches, and constructed his theory—the whole fabric of the Lombrosian doctrine, judged by the standards of science, is fundamentally unsound."⁹⁴ Few researchers are without their critics, and Goring's work in turn was blasted because it "bristles with . . . logical fallacies and . . . statistical sophistries, all devoted to his purpose of proving that criminals are not different from non-criminals. . . ."⁹⁵

The absence of adequate control groups, which was recognized even in Lombroso's day, is the most basic and damaging criticism made in any contemporary evaluation of his methods. Even if he can be excused for his anecdotal approach, use of analogies, philosophical deductions based on unrelated facts, and subjectivism in his anatomicopathological method, the lack of a good sample or of a control group of normals that meets the demands of statistical procedures causes the whole superstructure of analysis to crumble. Durkheim,⁹⁶ in his study of suicide in 1897, followed closely in the steps of historical continuity that can be traced from Guerry and Quetelet; consequently, he needed only data from human ecology, frequency distributions, rates per unit of population, etc. Durkheim suffered principally from the lack of test statistics, but Lombroso and his fellow criminal anthropologists established the tradition of looking for differences between criminals and non-criminals. Hence, extreme importance must be placed on the representativeness of the sample, or on the variables controlled in an individual or group matching of a "normal" population with the criminal one. Moreover, when reviewing Lombroso's writings, one is impressed with the lack of definition regarding the criminal. He sometimes

refers to individuals who are not "legal criminals," but who are "anthropologically criminal." For purposes of analysis, homogeneity of the criminal and non-criminal groups is a basic requirement. Such principles, of course, are easier to state than to accomplish in a research design, and much contemporary research still suffers, although in lesser degree than Lombroso's, from the same deficiencies.

There is both error and truth in the statement by Lindesmith and Levin regarding this point: "The assumption of the Lombrosians that the weighing and measuring of criminals was the only scientific method of studying criminals was particularly ironical in view of the notoriously slipshod methods of the father of criminal anthropology and in view of the neglect of control groups which has characterized the movement to the present day."⁹⁷ We agree with Sellin⁹⁸ that the Lombrosians did not assume that "the weighing and measuring of criminals was the only scientific method of studying criminals." That there was a "neglect of control groups" can hardly be denied, but it must be remembered that the sociological studies of the nineteenth century were "in most instances just as poor in method and execution as anything done by the adherents of the biological approach."⁹⁹ Lombroso had no adequate basis for a comparison with the general population of the same economic and social class and of the same general level of intelligence; there was numerical inadequacy of the ethnic and racial heterogeneity of the material, and there was a lack of any scientific statistical analysis of the data assembled by a wide variety of students. In some cases thousands of cranial and other types of measurements are reported, but mere magnitude of a sample does not guarantee its representative character; and unless there is some adequate statistical method of appraising the amount of fortuitous divergence in comparing the characteristics of two or more samples, conclusions drawn from such differences cannot be considered valid.

Lombroso crudely correlated a host of factors with crime without much questioning of the presence or absence of the underlying cause-and-effect relationship. Perhaps one of the most indictable instances of this fallacy may be seen in his analysis of the relationship between the use of

⁹⁴ GORING, *THE ENGLISH CONVICT: A STATISTICAL STUDY* 16 (abridged ed., London 1919).

⁹⁵ HOOTON, *op. cit. supra* note 79, at 23. See the entire section devoted to a criticism of Goring. *Id.* at 18-31. Also, Charles Goring's *THE ENGLISH CONVICT: A Symposium*, 5 J. CRIM. L. & C. 207, 348 (1914-1915).

⁹⁶ DURKHEIM, *LE SUICIDE* (1897).

⁹⁷ Lindesmith & Levin, *op. cit. supra* note 81, at 664.

⁹⁸ Sellin, *The Lombrosian Myth in Criminology* (Letter to the Editor), 42 AM. J. SOC. 897 (1937).

⁹⁹ *Id.* at 898.

tobacco and crime. After using questionable data from other countries regarding the proportion of prisoners who smoke, his conclusion begins with an unwarranted, dogmatic assertion followed by an interesting ambiguity:

"It is clearly to be seen, then, that there is a causal connection between tobacco and crime, like that which exists in the case of alcohol. But, as in the case of alcohol, it is a curious fact that the countries where the consumption of tobacco is greatest have a lower criminality. This contradiction is frequently met in our researches; but it soon disappears, because the abuse of these stimulating substances, as in the case of alcohol, takes place especially among civilized people, who learn to control themselves."¹⁰⁰

However obvious the limitations and errors of Lombroso's statistical procedures may be to the contemporary criminologist (who cannot afford to be too self-righteous), there is evidence of his having been cognizant of the importance of a control group. In numerous instances he attempts, however crudely, to compare prisoner groups with normals. The median occipital fossa, which he first described, was found, for example, to be present in 4.1 per cent of the skulls examined for student demonstration, in 14.3 per cent of prehistoric skulls, in 15 per cent of ancient Peruvian skulls, in 28 per cent of Australian aborigines, and in 20 per cent of criminal skulls.¹⁰¹ As a crude test of his beliefs that the criminal could be identified on sight Lombroso once asked a school teacher to show her thirty-two young girls twenty portraits of thieves and twenty of great men. We are told that 80 per cent of the children correctly identified the subjects.¹⁰²

Especially in *The Female Offender* (which Kurella believes is the book in which Lombroso used the best methods), does Lombroso seem to exercise caution and make attempts frequently to compare a group of prostitutes and other female criminals with a control group of "normal" women. For example, after describing his own observations added to those of Tarnowsky and Ottolenghi, he says: "This constitutes a total of 1,033 observations on female criminals, 176 observations on the skulls of female criminals, 685 on the skulls of

prostitutes, 225 on normal women in hospitals, and 30 other also normal."¹⁰³ Criminal women are compared with normals relative to height and age, weight and age, span of arms, average height of the body seated, the hand, neck, thigh, leg, foot, hair, eye color, and a variety of other physical traits. He relies again upon measurements taken by many other persons whose instruments of analysis he could not control, and whose "normals" were selected without the characteristic of representativeness. Still, one is impressed with his *attempt*, even in the case of examining wrinkles among women, to provide a valid comparison and to use control groups. With a classification of eight major wrinkle types (deep frontal, horizontal; deep frontal, vertical; crow's feet; wrinkles under the eyelids; naso-labial wrinkles; zygomatic wrinkles; gonionmental wrinkles; labial wrinkles) he divides three age-groups (14-24 years; 25-49 years; 50 years and over) into normal and criminal populations. The approach to acceptable comparison is present, and his caution is noted when he says: "Taking into account only the deeper wrinkles, I concluded, after examining 158 normals (working women and peasantry) and 70 criminals, that among the latter class wrinkles are not more common than among the former. Nevertheless, certain wrinkles, such as the fronto-vertical, the wrinkles on the cheek-bones, crow's feet, and labial wrinkles are more frequent and deeply marked in criminal women of mature age."¹⁰⁴ We are not told how the 158 normals were chosen or even where and how he obtained the criminal women, but there is an implicit attempt to hold constant socio-economic class by use of normals from "working women and peasantry." The same awareness is evident elsewhere in his discussion of crime among Jews: "The statistics of many countries show a lower degree of criminality for the Jews than for their Gentile fellow-citizens. This is the more remarkable since, because of their usual occupations, they should in fairness be compared, not with the population in general, but with the merchants and petty tradespeople."¹⁰⁵

He frequently allows himself the luxury of much too free interpretation or speculation based on meager data, as in the case of his observation of the bust of an old woman from Palermo (*Vecchia dell'Aceto*) whom he had never seen but which he

¹⁰⁰ CRIME: ITS CAUSES AND REMEDIES 102. Cf. BONGER, *op. cit.* *supra* note 37, at 77.

¹⁰¹ Reported in KURELLA, *op. cit.* *supra* note 4, at 32.

¹⁰² LOMBROSO-FERRERO, CRIMINAL MAN, *op. cit.* *supra* note 19, at 50-51; also, ELLIS, *op. cit.* *supra* note 36, at 86.

¹⁰³ THE FEMALE OFFENDER 47.

¹⁰⁴ *Id.* at 71-72.

¹⁰⁵ CRIME: ITS CAUSES AND REMEDIES 37.

describes as "so full of virile angularities, and above all so deeply wrinkled, with its Satanic leer, suffices of itself to prove that the woman in question was *born to do evil*, and that, if one occasion to commit it had failed, she would have found another."¹⁰⁶ But in the summary statement on the anthropometry of female criminals he again tempers his earlier license: "It must be confessed that these accumulated figures do not amount to much, but this result is only natural. For if external differentiations between criminal and normal subjects in general are few, they are still fewer in the female than in the male."¹⁰⁷

References to tattooing demonstrate both his attempt to compare criminals with normals and his hasty theoretical deduction from the observed facts. Using statistics of 13,566 individuals of which 4,376 were "honest," 6,347 criminal, and 2,943 insane, he shows that tattooing is quite common among criminals. "It may be said that, for these last," he suggests, "it constitutes on account of its frequency a specific and entirely new anatomico-legal characteristic."¹⁰⁸ He mentions several "causes" for tattooing, such as religion, carnal love, imitation, idleness, vanity, and above all atavism: "But the first, the principal cause which has spread this custom among us, is, in my opinion, atavism, or this other kind of historic atavism called tradition. Tattooing is in fact one of the essential characteristics of primitive man and of the man who is still living in a savage state."¹⁰⁹

Lombroso seems to have had trouble deciding the proportionate number of anomalies necessary to apply to his designation of the born criminal. In an early examination of a group of 383 criminals, he found 21 per cent who had only one physical anomaly and 43 per cent with five or more anomalies. He concluded that as many as five in any individual should be taken as the minimum indication of physical criminal type. (The same inability to objectify and quantify the number or intensity of personality and behavioral traits needed to designate a psychopath still plague the psychologist and psychiatrist.¹¹⁰) Although he never seemed to consider all criminals of the born criminal type, he first estimated that the *delinquente-*

nato comprised 65 or 70 per cent. It was Ferri, in his review¹¹¹ of Lombroso's *L'Uomo delinquente* in 1878, who convinced himself and influenced Lombroso to believe that anthropological postulates do not apply in their complete and characteristic entirety to all those who commit crime: "As to the results of the researches of criminal anthropology, they show that in the mass of delinquents, there are from fifty to sixty per cent who have only a few organic and psychic anomalies, while about a third show an extraordinary number and a tenth show none at all."¹¹² We have seen that in his last work Lombroso reduces the proportion of the born criminal type to one-third.

Although far from providing convincing and valid statistical proof of his contentions, some of Lombroso's tables represent the character of his scientific research in criminal anthropology. By way of illustration, let us examine one of these tables, which is reproduced here.

DISTRIBUTION OF SKULL ANOMALIES FOUND
BY LOMBROSO¹¹³

Conditions as to Anomalies of Skull	Criminals Guilty of Homicide and Sentenced to:		Non- criminal Italian Soldiers N = 711
	Penal Servitude N = 346	Imprison- ment N = 363	
No anomalies of skull	11.9%	8.2%	37.2%
One or two anomalies	47.2%	56.6%	51.8%
Three or four anomalies	33.9%	32.6%	11.0%
Five or six anomalies	6.7%	2.3%	0.0%
Seven or more anomalies	0.3%	0.3%	0.0%
	100.0%	100.0%	100.0%

As Vold suggests, "Lombroso deserves respectful credit for utilizing the method of control group comparisons in the application of statistical methods to his problem" although "it remained for others to make more exact and careful application of more adequate statistical methodology to the problem of physical differences between criminals and non-criminals."¹¹⁴ We have previously raised

¹¹¹ Ferri, *Studi critici sull'Uomo delinquente di Lombroso*, RIVISTA EUROPEA (1878); cited by FERRI, CRIMINAL SOCIOLOGY, *op. cit. supra* note 80, at 129.

¹¹² *Ibid.*

¹¹³ L'UOMO DELINQUENTE 273 (4th ed. 1889); cited by FERRI, CRIMINAL SOCIOLOGY, *op. cit. supra* note 80 at 12; also used by VOLD, *op. cit. supra* note 43, at 52.

¹¹⁴ Vold, *op. cit. supra* note 43, at 52.

¹⁰⁶ *Id.* at 72-73. Italics added.

¹⁰⁷ *Id.* at 74.

¹⁰⁸ 1 L'HOMME CRIMINEL 266.

¹⁰⁹ *Id.* at 295.

¹¹⁰ See, for example, Schuessler & Cressey, *Personality Characteristics of Criminals*, 55 AM. J. SOC. 476 (1950).

serious questions about Lombroso's anthropometry, his determination of specific anomalies and their dimensions, as well as his use of representative control groups. If, however, we assume validity of these measurements and of the sample of "non-criminal Italian soldiers," and then apply the non-parametric tool of chi-square to test for significance of difference between observed and theoretical distributions, we may note that there is: (a) a significant difference between the distribution of anomaly categories found among criminals sentenced to penal servitude compared to Italian soldiers ($\chi^2 = 119.74$; $df = 4$; $P < .001$); (b) a significant difference between criminals sentenced to imprisonment and the Italian soldiers ($\chi^2 = 148.9$; $df = 4$; $P < .001$); (c) less of a difference between criminals sentenced to servitude and those sentenced to imprisonment. ($\chi^2 = 15.0$; $df = 4$; $P < 0.2$). We have not taken time to test significance of difference between proportions within each of the anomaly categories, but inspection indicates obvious differences and, combined with the tests computed from this table, support the point Lombroso is trying to demonstrate.

We are not defending this table, nor Lombroso's theoretical deductions from it, nor even the desirability of applying test statistics to it. We are merely trying to show that he applied a scientific approach to his data; that he obviously possessed intellectual integrity in his pursuit of understanding; that many contemporary researches use data that have little more validity than his; and that with statistical tables similar to his, conclusions purporting wide applicability have appeared in present-day research. We must remember that Lombroso could not make use of the probable error, the significance of differences between means, the standard deviation, the coefficient of variation, the coefficient of correlation, the chi-square, the coefficient of mean square contingency, etc., etc. These tools, sometimes used today to camouflage dubious research design, were not available to him. Nonetheless, he possessed a methodological insight that should not be denied him.

In referring to his conception of the criminal type he speaks of the type in general and with awareness of a mental construct not in direct correspondence to individual empiric reality: "In my opinion, one should receive the *type* with the same reserve that one uses in estimating the value of *averages* in statistics. When one says that the average life is

thirty-two years and that the most fatal month is December, no one understands by that that everybody must die at thirty-two and in the month of December."¹¹⁵

Often unnoticed in contemporary quick dismissals of Lombroso's life and contribution is the fact that he challenged his opponents to test his ideas by a controlled investigation of criminals and non-criminals. He felt that such a study would vindicate him from the criticisms made previously, principally by French scholars. The Second International Congress of Criminal Anthropology at Paris (1889) followed a proposal from Garofalo and had appointed a commission of seven members to make a series of comparisons between 100 criminals (one third murderers, one third violent criminals, and one third thieves) and 100 "honest" persons. The commission consisted of Lacassagne, Benedikt, Lombroso, Manouvrier, Magnan, Semal, and Bertillon. The report was to be submitted to the Third Congress, but was not made; the only result of the commission's work was Manouvrier's private report examining the "basic questions for the comparative study of criminals and honest people."¹¹⁶ As a result, except for Ferri, the important Italians stayed away from the Third Congress in Brussels (1892) and informed the Congress in a letter sent from forty-nine scientists headed by Lombroso, Garofalo, Ferrero, Ottolenghi, and Sighele.¹¹⁷ Thus, nothing came of Lombroso's request until 1913, when Charles Goring published *The English Convict* as a direct result of that challenge.

In sum, Lombroso investigated the etiology of crime with procedures in which he had been trained and felt competent. He used clinical and historical methods, anthropometric and statistical techniques, the tools of analogy and anecdotal illustration. His ill-defined measurements, unwarranted deductions, and inadequate control groups constitute serious deficiencies of his research. But he also manifested imaginative insight, good intuitive judgment, intellectual honesty, awareness of some of his limitations, attempts to use control groups, and a desire to have his theories tested impartially. Many researchers of today fare little better than this.

¹¹⁵ L'HOMME CRIMINEL ix.

¹¹⁶ ACTES DU TROISIÈME CONGRÈS INTERNATIONAL D'ANTHROPOLOGIE CRIMINELLE. BIOLOGIE ET SOCIOLOGIE 171 (Brussels 1893).

¹¹⁷ *Id.* at xvi.

SOCIAL FACTORS

Although the name of Lombroso is most closely associated with terms like atavism, arrested development, degeneracy, and the born criminal, his positive approach also included a concern for factors in the physical and social environment of the offender. It would be incorrect to assert, of course, that he gave attention to social factors equal in space or import to the biological ones. Nonetheless, induced by his critics and friends, as well as by new opportunities to make more expansive inquiries than purely anthropometric, Lombroso came to write *Le Crime: causes et remèdes* in 1899. Generally, he was intent upon showing that political and economic developments of civilized nations have given rise to the appearance of abnormalities which induce social reactions. Throughout his discussions of socio-economic factors there is emphasized a mutual interactive relationship between heredity and environment. Nature makes the raw material, society provides the circumstances within which the biological structure operates; but the social circumstances may be partially responsible for encouraging or calling forth a variety of transmissible biological anomalies that in turn function within and affect the social structure. The emphasis is on the biological, it is true, but it would be fallacious to deny Lombroso's recognition of environmental, precipitating factors that lie outside the individual and contribute to the etiology of crime.

Both in the definition of crime and in the determination of penalties, he was aware of cultural relativity and could not always accept purely legal classifications. As Mannheim points out, "Not even Lombroso failed to recognize that crime in the sociological sense changes its contents just as much as does the legal conception."¹¹⁸ And as early as 1875 Lombroso published an article on the causes of crime, in which he stated:

"There is no crime which does not have its roots in numerous causes. If these often merge or are interdependent, we should, nevertheless,

obedient to a scholastic as well as to a linguistic necessity, consider them one by one, as is done with all other human phenomena, to which practically never a single cause can be assigned."¹¹⁹

Moreover, in the second edition of *L'Uomo delinquente* (1878) and twenty years before *Le Crime: causes et remèdes*, Lombroso gives attention to several environmental conditions that cause or that have an effect on criminality. He makes use of London data found in Mayhew's *Criminal Life* (1860) and of American descriptions from Barce's *Dangerous Classes of New York* (1874).¹²⁰ In this early edition he discusses the influence of poverty;¹²¹ the relationship between prices of wheat, rye, potatoes, other food products and minor violations, arson, crimes against property, and crimes against the person;¹²² the influence of alcohol;¹²³ emigration;¹²⁴ the evils of criminal gangs and corruption of police;¹²⁵ and the deleterious effects caused by criminal association in prisons that are not constructed in the cellular system.¹²⁶ While it is unfortunate that most of these items were omitted in the fourth edition, which was used as the basis for several translations, Lombroso deserves credit for giving early cognizance to a variety of social factors.

It is not possible to discuss in detail Lombroso's *Crime: Its Causes and Remedies*. Such a discussion would not necessarily be very fruitful of generalization other than the fact that he modifies some original perspectives found in earlier editions of *L'Uomo delinquente*. There are in the work interesting statements and amusing deductions, but no theoretical framework of sociological relevance that emerges from the plethora of facts, save that of a mutual interrelationship between the organic and the environmental. A few summary statements and illustrations will suffice to demonstrate his social perception, on the one hand, and his consistent clinging to the early concept of the born criminal, on the other.

¹¹⁹ LOMBROSO, ETIOLOGIA DEL DELITTO, MEMORIE DEL LABORATORIO DI PSICHIATRIA E MEDICINA LEGALE DELLA R. UNIVERSITÀ DI PAVIA (Bologna, 1875); quoted by Sellin, *A New Phase of Criminal Anthropology in Italy*, *op. cit.*, *supra* note 59, at 235.

¹²⁰ L'UOMO DELINQUENTE 118, 120, 156, 374 (2d ed. 1878), are good examples of his use of these sources in connection with socio-economic factors.

¹²¹ *Id.* at 363-365.

¹²² *Id.* at 260-262.

¹²³ *Id.* at 263-265.

¹²⁴ *Id.* at 368-370.

¹²⁵ *Id.* at 373-374.

¹²⁶ *Id.* at 370-371.

¹¹⁸ MANNHEIM, *Lombroso and His Place in Modern Criminology*, 28 SOCIOLOGICAL REV. 31, 40 (1936). Mannheim refers to Lombroso's CRIME: ITS CAUSES AND REMEDIES, where the latter remarks: "Civilization introduces every day new crimes, less atrocious perhaps than the old ones but nonetheless injurious" (*Id.* at 57); "Is it possible to believe in an eternal and absolute principle of justice among men when we see this pretended justice vary so greatly within a brief interval of space or time . . ." *Id.* at 34.

He begins with examination of meteorological and climatic influences and suggests that extremes of temperature, hot or cold, sap the individual's energy and leave little time or enthusiasm for deviations such as crime. His discussion of the influence of race leads to the conclusion that certain groups in every culture are responsible for most criminality, and he gives details of various robber tribes in India and elsewhere. The conclusion minimizes the social factors, however, for he suggests that hereditary predispositions seem to function in the case of crime among Jews and Gypsies. The influence of civilization, density of population, alcohol, education, economic conditions, religion, prisons, criminal associations, and political crimes constitute the remaining portions of the first part of the book, while "Prophylaxis and Therapeusis of Crime," and "Synthesis and Application" comprise the last hundred pages. In the third part of the book, he recapitulates his position on atavism, epilepsy, and the classification of other types.

Some provocative, imaginative, and insightful statements appear in the first section of *Crime: Its Causes and Remedies*. The examples that follow were specifically selected to show these traits.

Civilization, wealth, and crime: "The progress of civilization, by endlessly multiplying needs and desires, and by encouraging sensuality through the accumulation of wealth, brings a flood of alcoholics and general paralytics into the insane asylums, and crowds the prisons with offenders against property and against decency." (P. 51.)

Urban congestion of population: "This unfortunate concentration of crime is to be explained by the greater profits or the greater security which the large cities offer to criminals. But this, perhaps, is not the only reason, for if in cities vigilance is more relaxed, prosecution is more active and systematic; and if temptations and inducements to crime are more numerous, so are the opportunities for honest labor. . . . The very congestion of population by itself gives an irresistible impulse toward crime and immorality." (P. 53.)

"We see, therefore, that homicide decreases as the density [of population] increases, especially in the great cities. . . . Theft, rape, and resistance to the officers of the law also diminish with the increase in density, to rise again rapidly, however, with the excessive density of the great cities." (P. 61.)

"We see that theft becomes more and more frequent as the density increases. Homicides and rapes, on the contrary, show the highest proportion with the minimum or the maximum of the density. This contradiction is explained by the fact that where the population is most compact occur the great industrial and political centers, and ports of immigration, where the *opportunities for conflict* are more frequent; and where there is the minimum density there is the maximum of barbarism, and we have seen that assaults and assassination are there often regarded more as necessities than as crimes." (P. 62, emphasis added.)

Women and urban crime: "Women are more criminal in the more civilized countries. They are almost always drawn into crime by a false pride about their poverty, by a desire for luxury, and by masculine occupations and education, which give them the means and opportunity to commit crimes against the laws of the press, and swindling." (P. 54.)

Immigration and emigration: "When the tide moving men to emigrate is weak it draws the stronger and more intelligent, but when it becomes too violent it sweeps along good and bad alike. In fact, the greater part of the criminality of the immigrants is furnished by the border provinces, where emigration is easy. . . . On the other hand, the less stable the immigration is the more crimes it furnishes. The Belgians, who became naturalized Frenchmen, commit fewer crimes than the Spaniards, who are nearly always merely temporary residents." (P. 66.)

"The emigration from the country to the cities is such that the rural emigrants constitute a fifth part of the urban population; and it is the better and more intelligent who emigrate, thus lowering the level of the country and in return bringing back to it the vices and customs of the city." (Pp. 72-73.)

Food prices: "But of all studies of the influences at work in the different kinds of crime in Italy; the most conclusive is that of the hours of labor necessary to obtain the equivalent of a kilogram of wheat or bread. In this way the price of food is corrected for variations in wages (Fornasari di Verce, "La Criminalità e le Vicende Economiche in Italia," Turin: Bocca, 1895) We see here that all crimes against property (except where contradictory factors come too powerfully into play) run with great fidelity parallel to the curve of the hours of work

necessary to procure the equivalent of a kilogram of bread or grain . . . Crimes against morality increase as the necessary hours of labor diminish." (P. 79.)

"The effect of the price of provisions upon murder is uncertain or negligible, the latter being also true of assaults. The influence upon theft is very great, as is also the inverse effect upon crimes against good morals, which increase with the falling off in the price of food. Famine lessens sexual vigor, and abundance excites it; and while the need of food drives men to theft, the abundance of it leads to sexual crimes." (P. 81.)

We have previously mentioned his awareness of class differences and the necessity to hold the occupational variable constant in an analysis of crimes among Jews. At several points in his writings, Lombroso comes close to admitting that there are normal criminals, although he never totally departs from his original concept of atavism. There are two forms of criminality, he suggests, which consist of "atavistic criminality," and "evolutive criminality": "Into the first class of criminals fall only a few individuals, fatally predisposed to crime; into the second any one may come who has not a character strong enough to resist the evil influences in his environment."¹²⁷ He means that the second group are criminals by legal definition but not from the point of view of criminal anthropology; the real criminals could always be identified by physical and psychological traits. Thus, as Sellin contends, although Lombroso "appreciated the exciting and the restraining effect of the environment, he never brought himself to admit the existence of a normal delinquent, one that is 'provoked and not revealed' by social conditions."¹²⁸ Lombroso's occasional criminals and criminals by passion were conceptually close to borderline normality, and the false or "pseudo-criminals" were "not criminals either in the eyes of society or of anthropology." This last group included those who unintentionally committed crimes or who broke laws enacted "by a dominant opinion or prejudice," poachers, smugglers, real political criminals, etc.¹²⁹

¹²⁷ CRIME: ITS CAUSES AND REMEDIES 45.

¹²⁸ Sellin, *A New Phase in Criminal Anthropology in Italy*, *op. cit. supra* note 59, at 235. See also Sellin, *En historisk återblick*, *op. cit. supra* note 42, at 12.

¹²⁹ L'UOMO DELINQUENTE 491 (5th ed.); also cited by Sellin, *A New Phase of Criminal Anthropology in Italy*, *op. cit. supra* note 59, at 236.

Lindesmith and Levin,¹³⁰ in their unwarranted denouncement of Lombroso, claim that *Crime: Its Causes and Remedies* "was in no sense a contribution to criminology." Van Kan¹³¹ argues that Lombroso's discussion of social factors in crime was chaotic and confused, comprised of heterogeneous unrelated facts imperfectly subjected to critical examination of source: by the author, who tries to cover too much territory in his preoccupation with arriving at a hasty conclusion. Van Kan is probably correct in asserting that despite all of the socio-economic causes upon which Lombroso reflects, organic factors remain the primary cause even in this last important work. In the final analysis, external causes themselves become organic according to Lombroso: "Finally, we have seen that certain circumstances have so strong an action upon criminaloids that they are equivalent to organic causes, and we may even say that they become organic."¹³² Even while recognizing social class differences when discussing Sighele's division of "collective criminality" into crimes of the upper and lower classes, he still refers to atavistic causes:

"Confronted by these two forms of collective criminality it is natural to ask ourselves, 'Why does the criminality of the rich take the form of cunning, while that of the poor is based upon violence?' The answer is easy. The upper classes represent what is really modern, while the lower still belong in thought and feeling to a relatively distant past. It is, then, logical and natural that the former should show the result of modern development in their collective criminality, and that the latter should remain, on the contrary, still violent, not to say absolutely atavistic."¹³³

At the First Congress of Criminal Anthropology in Rome (1885), Lombroso gave little or no attention to social and economic factors, and he proposed only the pure doctrine of the born criminal. In his attempt to oppose Lombroso, Lacassagne was quickly rebuked by Fioretto (called the alter ego of Ferri), who remarked that "the criminal type is a fact definitely acquired by science. Discussion does not seem appropriate on this point."¹³⁴ Only after the Second Congress in Paris

¹³⁰ Lindesmith & Levin, *op. cit. supra* note 81, at 666 n.21.

¹³¹ VAN KAN, LES CAUSES ECONOMIQUES DE LA CRIMINALITÉ 57-58 (Paris 1903).

¹³² CRIME: ITS CAUSES AND REMEDIES 376.

¹³³ *Id.* at 52.

¹³⁴ ACTES DU PREMIER CONGRÈS INTERNATIONAL

(1889), says van Kan did Lombroso begin to introduce social factors into his writing as a result of the criticism his ideas encountered at that meeting. At the Fourth Congress in Geneva (1896) there was recognition of Lombroso's modifications, for Dallemagne announced: "Lombroso himself seems to be affected by the objections raised, and his writings depart from unilateral formulae by their extended horizons."¹³⁵

Regardless of increasing emphasis that Lombroso may have put on environmental factors, we are inclined to accept Sellin's judgment that "Lombroso, in spite of the very great modifications in his theories, never departed from a monogenetic concept of crime," and we must agree with van Kan, who concluded that "c'était en effet le cas [that Lombroso had abandoned his unilateral theory], mais non sans le maintien inébranable du type criminel et du criminel-né."¹³⁶

PUNISHMENT AND CORRECTION

Lombroso's determinism did not lead him to indecision regarding a theory of punishment. There were some negative but certainly not sterile proposals that his position on the born criminal were bound to produce, but in general he emphasized sound views regarding the fundamental principles of reformatory treatment of all prisoners except born criminals. Accepting the basic theory of Beccaria, Lombroso contended that only natural necessity and the right of social defense constituted a sound basis for any theory of punishment.¹³⁷ Hence, both crime and punishment were of natural necessity. Critics were quick to point out that one could hardly punish a person unless assumptions were made about moral responsibility. But Lombroso did not mean to suggest that crime was a social need; crime was simply an inevitable consequence of social life. Similarly, the law was inevitable for the protection of society, and since society has the right to defend itself against aggressors, it has an equal right to punish. This relationship constitutes justice in

Lombroso's terms. Only that amount of punishment is justifiable that is compatible with social defense. Retribution and vengeance are excluded, while Beccaria's emphasis on deterrence is embodied within a more embracing theory of protection.

If the first object of punishment should be the protection of society, the second is the improvement of the criminal. The fundamental principle, he consistently repeats, is that we ought to study and to treat not so much the abstract crime as the criminal. Resulting from this emphasis was his demand for individualization of treatment, "which consists in applying special methods of repression and occupation adapted to each individual, as a physician does in prescribing dietary rules and special remedies according to the various illnesses."¹³⁸ These were ideas, we should note, expressed as early as his second edition of *L'Uomo delinquente* (1878); and because this was the edition in which he also discussed a variety of social factors in the etiology of crime, individualization of treatment meant the social necessity to consider the particular type of criminal beyond that of the original atavistic category. Consistency of penological views was maintained throughout his life, for a few months before his death in 1909 he could write to Prof. John Wigmore about apportioning penalties to fit the special type of offender rather than the crime, in the same fashion in which he had written about these ideas thirty years earlier. In his final work he was still saying that "the penalty should be indeterminate and should be subdivided according to the principle of Cicero: 'A natura hominis discenda est natura juris.' We must make a difference according to whether we have under our eyes a born criminal, an occasional criminal, or a criminal by passion."¹³⁹ As modern and progressive a statement as he makes anywhere is the following:

"In the case of every criminal in whose case the crime itself and the personal conditions show that reparation of the damage is not a sufficient social sanction, the judge should give sentence of imprisonment for an indeterminate time in a criminal asylum, or in the institutions (agricultural colonies or prisons) for occasional criminals, adults or minors. The carrying out of the sentence should be regarded as the logical and natural continuation of the work of the judge as a function of practical protection on the part of special organs. The commission for

¹³⁸ *L'Uomo DELINQUENTE* 429 (2d ed.).

¹³⁹ *CRIME: ITS CAUSES AND REMEDIES* 386.

D'ANTHROPOLOGIE CRIMINELLE 165, 169 (Turin 1886-87); cited by VAN KAN, *op. cit. supra* note 131 at 54.

¹³⁵ CONGRÈS INTERNATIONAL D'ANTHROPOLOGIE CRIMINELLE, COMPTE-RENDU DES TRAVAUX DE LA QUATRIÈME SESSION 201 (Geneva 1897). Dallemagne was not happy with this concession: "Voilà qu'aujourd'hui Lombroso fait surgir à nouveau sa théorie dans sa forme la moins acceptable." *Ibid.*

¹³⁶ VAN KAN, *op. cit. supra* note 131, at 55 n.2.

¹³⁷ *L'Uomo DELINQUENTE* 382ff (2d ed. 1878); *CRIME: ITS CAUSES AND REMEDIES* 379, 381.

carrying out penal sentences should include expert criminal anthropologists, representing the judge, the defense, and the prosecution. These men, together with administrative officers, would stand, not for neglecting and forgetting the prisoner as soon as sentence is pronounced, as happens now, but for a humanitarian work which would be efficacious for the protection, now of the individual against the execution of a sentence which in his case, has been proved to be excessive. It is apparent, then, that conditional liberation is bound up with the principle of the indeterminate sentence."¹⁴⁰

The pessimistic note in his penological views concerned the incorrigible and born criminal type. His recommendations for indeterminate sentences, use of fines and probation, and his proud connection with influencing Z. R. Brockway and the Elmira Reformatory,¹⁴¹ were all related to offenders other than the born criminal. "It would be a mistake," he says, "to imagine that measures which have been shown to be effective with other criminals could be successfully applied to born criminals; for these are, for the most part, refractory to all treatment, even to the most affectionate care begun at the very cradle. . . ."¹⁴² He also expressed fear that better education of the prisoner in prison would merely produce more educated recidivists, principally because of increased criminal associations in the institution. Based on this same kind of apprehension, he favored the cellular prison, although he was aware of its psychological disadvantages.

He favored retention of the death penalty as the only recourse left to a society seeking to protect itself against irreformable elements. The inadequate powers of natural selection should be supplemented by deliberate social selection (presumably excluding, however, positive eugenics) aimed at the elimination of extremely anti-social individuals. With this perspective, the death penalty becomes for him "estrema selezione." Not going so far as Garofalo, but disagreeing with Ferri,¹⁴³ who basically opposed the death penalty

and believed it ineffectual because of its little usage, Lombroso felt that "it should remain suspended, like the sword of Damocles, over the head of the more terrible criminals." For the born criminal, "organically fitted for evil," capital punishment was still unfortunately necessary.

After having admitted the utilitarian application of the death penalty for this criminal type, he seems sorry and suggests additionally a "doctrine of symbiosis" by which the criminal could be utilized to accomplish socially useful purposes. "But we shall attain this end completely only upon the basis of the new science of anthropology, which, by individualizing its work, can give us powerful aid in discovering the special tendencies of criminals, in order to direct them and utilize the less anti-social of them."¹⁴⁴ This substitute for repressive measures would seek "to direct to great altruistic works that energy, that passion for good" which he believed exists particularly in the criminal by passion and in the political criminal, but even in some cases in the born criminal.

Along with Ferri and Garofalo he believed that the victim of a crime should be properly compensated for injury. This would not only be an ideal punishment, but would benefit the victim as well, he thought. He recognized the difficulties of administering such a proposal, but like a recent suggestion presented to Parliament in England, Lombroso's idea was that "the victim should be legally entitled to receive a part of the proceeds from work done by the culprit during detention."¹⁴⁵

Despite some pessimistic expressions, Lombroso was more concerned with preventive measures than punitive ones, and when he discusses any criminal type except that of the born criminal, he sees opportunities for prevention. Society has progressed to the point, he felt, where "it has already found means of treating the diseases it has produced, with its asylums for the criminal insane, its system of separate confinement in the peniten-

¹⁴⁴ CRIME: ITS CAUSES AND REMEDIES 448.

¹⁴⁵ In LOMBROSO-FERRERO, *CRIMINAL MAN*, *op. cit.* *supra* note 19, at 191-192. Cf. FERRI, *CRIMINAL SOCIOLOGY*, *op. cit. supra* note 80, at 511-512; GAROFALO, *CRIMINOLOGY*, 434-35 (Millar transl. 1914). At the First Congress (1885), a resolution was passed which essentially followed the suggestions of Ferri and Garofalo. The Third International Juridical Congress at Florence (1891) recommended the institution of a Compensation Fund. Relative to contemporary England, see *PENAL PRACTICE IN A CHANGING SOCIETY*, a Paper presented to Parliament by the Secretary of State for the Home Department (London February 1959).

¹⁴⁰ *Id.* at 386-387.

¹⁴¹ *Id.* at 393-394. Cf. BROCKWAY, *FIFTY YEARS OF PRISON SERVICE* 215 (1912).

¹⁴² *Id.* at 432.

¹⁴³ FERRI, *CRIMINAL SOCIOLOGY op. cit. supra* note 80, at 530-532. Pinatel suggests that the position of Lombroso on this matter is situated somewhere between the totalitarian social defense of Garofalo and the humane social defense of Ferri. Pinatel, *La vie et l'oeuvre de César Lombroso*, *BULLETIN, SOCIÉTÉ INTERNATIONALE DE CRIMINOLOGIE* 217 (2^e semestre 1959).

tiaries, its industrial institutions, its savings banks, and especially its societies for the protection of children, which prevent crime almost from the cradle."¹⁴⁶

It remained for Ferri and other followers of the Positive School to expand and implement some of the basic suggestions introduced by Lombroso, who was less of a legal and penal reformer than were his colleagues and disciples.

REACTION AND INFLUENCE

Space precludes a detailed treatment of the reaction to or influence of Lombroso's work in criminology. His immediate and direct influence on Italian scholars such as Ferrero, Ferri, Garofalo and others is well known, and out of this personal contact arose the Positive or Italian School. Particularly after publication of the second edition of *L'Uomo delinquente*, and as a result of the Congresses of Criminal Anthropology, friends and critics of Lombroso became more clearly demarcated and vociferous. Tarde's attack in *Criminalité comparée* (1886) consisted in showing a lack of agreement on what stigmata to use to identify the criminal; and this demonstration of inconsistency among the anthropologists convinced many of his French colleagues. Lacasagne, Manouvrier, Joly, and Topinard (successor of Broca and director of the *Archives d'Anthropologie*) wrote articles opposing Lombroso's ideas. At the Second Congress in Paris in 1889, says Gina Lombroso,¹⁴⁷ these men "vomitarono fuoco contro Lombroso." Defenders came to his side, including Ferri, Garofalo, Laschi, Van Hamel, Moleschott and many lesser known followers. Anthropological societies concerned with criminal behavior and based at least in part on Lombroso's theories were founded in Buenos Aires, Petrograd, Rio de Janeiro, and elsewhere. Kurella became the leading defender of Lombroso in Germany with publication of the former's *Naturgeschichte des Verbrechers* (1893), and in England Ellis disseminated many of Lombroso's ideas through publication of *The Criminal* (1890). But independent investigations reported by Baer in *Der Verbrecher in anthropologischer Beziehung* (1893) and by Goring in *The English Convict* (1913) were extremely damaging to concepts of the born criminal, and the voices of highly respected scholars such as Hans Gross, von Oettingen,

Aschaffenburg, van Kan, and Bongers were added to the opposition.

Many students of criminology followed directly or indirectly in the theoretical or methodological footsteps of Lombroso. Winkler and Aletrino were evidence of the interest in criminal anthropology in the Netherlands. But it was principally in Italy, as might be expected, where Lombroso's influence was most deeply felt and continues as a force. Although there was considerable opposition by Italian lawyers from the beginning, both legislation and research (as much through the reform efforts of Ferri as from the ideas of Lombroso) became explicit results of the Positive School. In the first quarter of the twentieth century, Italian research in endocrinology, psychology, and forensic psychiatry had greatly extended the horizons of Lombroso beyond the contributions he had made. The work of Morselli, Pende, Lugaro, Vidoni, Clerici, Ottolenghi, and others added convincing data regarding the interrelationship between morphological and psychological characteristics.¹⁴⁸ Research since the 1920's has been led by Ottolenghi, Saporito, DeSanctis, Pende, Niceforo, Ceni, Grispigni, and Di Tullio.¹⁴⁹ The chain of lombrosian continuity can be traced through these scholars to the present status of research in Italy, best reflected in the competent work of Benigno di Tullio, who is the most outspoken heir of clinical criminology and forensic psychiatry. The results of his work have appeared in numerous publications and were early summarized in his book, *Manuale di Antropologia e Psicologia Criminale*, published in 1931. His latest edition of *Principi di Criminologia Clinica e Psichiatria Forense* (1960) makes abundantly clear the comprehensive clinical approach of the contemporary Italian School, which emphasizes the individual, pragmatic, eclectic, treatment-oriented approach.

In his studies, Di Tullio has support from schools of Forensic Medicine and from the present Italian correctional administration. The present Commissioner, Nicola Reale, provides governmental recognition of the Italian clinical approach, and through his support the Institute at Rebibbia

¹⁴⁸ For specific details of these researches and a good bibliography for this period, see Sellin, *A New Phase of Criminal Anthropology in Italy*, *op. cit. supra* note 59.

¹⁴⁹ For details of this later period in Italy, see Monachesi, *Trends in Criminological Research in Italy*, 1 AM. SOC. REV. 396 (1936); BECKER & BARNES, *SOCIAL THOUGHT FROM LORE TO SCIENCE* 1004-07 (2d ed. 1952).

¹⁴⁶ CRIME: ITS CAUSES AND REMEDIES 58.

¹⁴⁷ See Gina Lombroso's descriptions of these battles in LOMBROSO-FERRERO, CESARE LOMBROSO, *op. cit. supra* note 18, at 279ff.

(Rome) has become one of the important centers for clinical criminology, which Di Tullio designates as the new phase in the evolution of lombrosian doctrine and criminal anthropology. Together with his two capable assistants, Ferracuti and Fontanesi, Di Tullio has both continued a positivist lombrosian tradition and expanded earlier emphases on the psycho-physiological clinical examinations of criminals. These examinations are deemed essential for understanding the motivational dynamics of criminal behavior and are to be used as an integral basis for treatment programs.¹⁵⁰ Instead of the static approach of Lombroso, this "biotypological-constitutionalist" method, as Di Tullio calls it, seeks to study the dynamic processes of personality formation, whether that personality be normal, abnormal, or sick. References are made in his writings to the psychologically underdeveloped; the constitutional psychopath is compared to the constitutional delinquent; and in some delinquents, traits similar to the epileptic are still noted.¹⁵¹

To the list of those who have continued the post-lombrosian framework of reference in their research and writings should be added Vervaeck in Belgium, Saldana in Madrid, and Berardinelli in Rio de Janeiro. But Germany and Austria have reflected the influence of this tradition probably more than other countries outside of Italy. From the work of Kretschmer's psychiatric clinic and his famous *Körperbau und Charakter* (1921), scholars had a new and firmer basis for asserting the significance of the relationship between crime, character, and constitution. The Bavarian investigations of the period prior to World War II included studies by Lenz, in charge of the criminobiological station at Graz and who spoke of the criminal as a unified system of biological dispositions; Vierstein, director; and Lange, who is best

known for his study of twins and concordant criminal behavior. The crimino-biologists in Germany, says Cantor¹⁵² in his review of research in that country during the 1930's, assumed that while no one is born predetermined to a life of crime, heredity plays the more important role in determining the manner in which one's social experience will be undergone and assimilated. The series of studies under the editorship of F. Exner at the University of Munich was largely devoted to psychological and statistical studies undertaken by lawyers and dealt with particular offenses or particular classes of criminals, but publication of Exner's *Kriminalbiologie* (1939), in which he refers to biologically "delinquent dispositions," places him in the post-lombrosian tradition.

Lombroso received little attention in the United States before the 1890's, largely because his major works remained untranslated into English. Never has any full edition of *L'Uomo delinquente* been translated into English even to this day. However, both the abridged, summary, and sketchy version written by his daughter, Gina, which was available in 1911, and *Crime: Its Causes and Remedies*, published in 1912 under the auspices of the American Institute of Criminal Law and Criminology, increased the publicity given to his theories. Before this time, Fletcher, then president of the Anthropological Society of Washington, D.C., wrote on "The New School of Criminal Anthropology" in the *American Anthropologist* (July, 1891); after his recital of European works, he declared that nothing had yet been done in the United States. William Noyes had uncritically adopted the Lombrosian position in his 1888 article on "The Criminal Type," and Hamilton Wey (1890) and James Weir (1891) had summarized criminal anthropology.¹⁵³ August Drähms, chaplain of San Quentin prison at the time, asked Lombroso to write the introduction to his book, *The Criminal* (1900), in which Lombroso said, "I have not had the good fortune for some time to find an author who so thoroughly under-

¹⁵⁰ For further details on the contemporary Italian School, see the following as examples: DI TULLIO, *PRINCIPI DI CRIMINOLOGIA CLINICA E PSICHIATRIA FORENSE* (Roma 1960); DI TULLIO, *ANTROPOLOGIA CRIMINALE* (Roma 1940); DI TULLIO, *MANUEL D'ANTHROPOLOGIE CRIMINELLE* (Paris 1951); DI TULLIO, *L'Endocrinologia e la morfologia costituzionale in antropologia criminale*, *ZACCHIA* 1 (July-Oct. 1923); DI GENNARO, Ferracuti & Fontanesi, *L'Esame della personalità del condannato nell'Istituto di Osservazione di Rebibbia*, *ATTI DEL PRIMO CONVEGNO INTERNAZIONALE DI CRIMINOLOGIA CLINICA* (Roma, April, 1958), published in *RASSEGNA DI STUDI PENITENZIARI* 371 (May-June 1958).

¹⁵¹ Di Tullio, *Cesare Lombroso*, 4 *SCIENTIA MEDICA ITALICA* 133 (1955). See also, DI TULLIO, *PRINCIPI DI CRIMINOLOGIA CLINICA* 14, 17, 67, 73-74, 78, as examples, (1954).

¹⁵² Cantor, *Recent Tendencies in Criminological Research in Germany*, 1 *AM. SOC. REV.* 407 (1936).

¹⁵³ Fletcher, *The New School of Criminal Anthropology* 4 *AM. ANTHROPOLOGIST* 201 (1891); Noyes, *The Criminal Type*, *J. SOC. SCI.* 31 (1888); Wey, *Criminal Anthropology*, *PROCEEDINGS OF THE NAT'L PRISON ASS'N* 274 (1890); Weir, *Criminal Anthropology*, 45 *MEDICAL RECORD* 42 (1894). All of these references and a description of the first influences of Lombroso in America may be found in FINK, *CAUSES OF CRIME: BIOLOGICAL THEORIES IN THE UNITED STATES* esp. 99-133 (1938).

stands my ideas and is able to express them with so much clearness, as the author of this book."¹⁵⁴ Arthur MacDonal's *Criminology* had been dedicated to Lombroso as early as 1893, and while Lombroso's ideas were not unknown to American students even before this time, it was probably Drähms' book that most fully and fairly presented these ideas in America. Thereafter, a number of lesser known persons, mostly physicians, wrote about degeneration, the criminal brain, the criminal cranium, and other anatomical deviations.

About the time that an increase in endocrinological research was taking place in Italy, Schlapp and Smith produced their "consideration of the chemical causation of abnormal behavior" in *The New Criminology* (1928). These authors sought to show that children born malformed through chemical imbalance due to disturbances of the ductless glands show gross defects and "are typical criminals of Lombroso. They exhibit the physical stigmata to which he attached so great an importance."¹⁵⁵ The major study of morphology and crime in the United States was *The American Criminal*, by Hooton (1939), whose focus has been called "neo-lombrosian" and who became associated with the constitutional school in biology and psychology. Within a theoretical frame of reference which assumed that constitutional (hereditary) differences denoted superiority or inferiority of basic organisms, his empiric data, based upon a highly inadequate control group, led him to conclude that criminals were the result of environment operating upon inferior biological organisms. The methodological faults of this study were widely discussed, and they further dissuaded overtures to investigate criminal behavior from the lombrosian or neo-lombrosian perspective.

Earlier attempts by Mohr and Gundlach¹⁵⁶ to apply Kretschmer's theory and typology to

the native-born white male inmate population in Illinois had failed to supply convincing evidence of a relationship between offense, type of body build, and temperament, although the authors were themselves satisfied with their findings. A more recent report on crime and constitution is William Sheldon's study¹⁵⁷ of the relationship between delinquency and somatotypes. He claims that three temperamental types and three psychiatric types are closely related with three basic somatotypes, and that in an analysis of delinquents compared with non-delinquents significant differences emerge with respect to these various components. His general approval of Hooton's work is explicit, and his observations of delinquents convinced him that "where essential inadequacy is present the inadequacy is well reflected in the observable structure of the organism." The damaging critique by Sutherland¹⁵⁸ probably reflects the thinking of most American criminologists regarding Sheldon's study. Sutherland remarks: "His data, in fact, do not justify any of these conclusions, either that the delinquents are different from the non-delinquents in general, or that the difference if it exists indicates inferiority, or that the inferiority if it exists is inherited."

Sheldon's somatotypes have been used in Sheldon and Eleanor Glueck's *Unraveling Juvenile Delinquency* (1950).¹⁵⁹ *Physique and Delinquency* (1956) proceeds under the hypothesis that if bodily structure is relevant to delinquency, then a number of (mainly) personality traits and sociocultural factors should be found to vary among the physique types. In all, 67 personality traits and 42 sociocultural factors are analyzed in relation to body structure. The study is in the positivist, eclectic, multidimensional tradition and certainly can be considered an historic heir of Lombroso. However, the Gluecks are cautious in their interpretations, are supported by sophisticated statistical manipulations, and are quite explicit in their wishing to be absolved from a unilateral approach when they remark that "the present work is not animated by any notion of

¹⁵⁴ Lombroso, *Introduction to DRÄHMS, THE CRIMINAL* (1900).

¹⁵⁵ SCHLAPP & E. H. SMITH, *THE NEW CRIMINOLOGY* 72-73 (1928). For good reviews of endocrinological literature relative to crime, see KINBERG, *BASIC PROBLEMS OF CRIMINOLOGY* (Copenhagen 1935); HURWITZ, *CRIMINOLOGY* (Copenhagen 1952). See also, Berman, *Crime and the Endocrine Glands*, 12 *AM. J. PSYCHIATRY* 226 (1932); Podolsky, *The Chemical Brew of Criminal Behavior*, 45 *J. CRIM. L., C. & P. S.* 675 (1955).

¹⁵⁶ Mohr & Gundlach, *The Relation Between Physique and Performance*, 10 *J. EXPERIMENTAL PSYCHOLOGY* 117 (1927); Mohr & Gundlach, *A Further Study of the Relation Between Physique and Performance in Criminals*, 24 *J. ABNORMAL PSYCHOLOGY* 91 (1929-30).

¹⁵⁷ SHELDON, *VARIETIES OF DELINQUENT YOUTH* (1949).

¹⁵⁸ Sutherland, *Critique of Sheldon's VARIETIES OF DELINQUENT YOUTH*, 16 *AM. SOC. REV.* 10 (1951).

A detailed review of the methods and research dealing with crime and constitution may be found in Snodgrass, *Crime and The Constitution: Human. A Survey*, 42 *J. CRIM. L., C. & P. S.* 18 (1951).

¹⁵⁹ SHELDON & ELEANOR GLUECK, *UNRAVELING JUVENILE DELINQUENCY* (1950); also, their *PHYSIQUE AND DELINQUENCY*, (1956).

respectful reawakening of the somnolent Lombrosian theory that 'the criminal' is a distinct hereditary species of 'atavistic' or of degenerative nature. Nor is it begun with any preconception that bodily structure is the most weighty etiologic factor, or matrix of influence, in criminogenesis. It is merely found to be a promising focus of attention. . . ."¹⁶⁰ This statement is probably a valid reflection of whatever vestige of Lombroso's etiologic ideas of the criminal type may remain in American criminology.

A CONTEMPORARY PERSPECTIVE

A review of the life, research, and continuing influence of Lombroso cannot fail making obvious the relationship he bears to contemporary criminology. The institutional and general sociological approach to an analysis of crime and the criminal predominates in American criminology, and with its emphasis on culture conflict, subcultures, anomie, and social deviance, this approach may appear far removed from the anthropometry of Lombroso. Nonetheless, even this approach is indebted to Lombroso for shifting focus from metaphysical, legal, and juristic abstraction as a basis for penology to a scientific study of the criminal and the conditions under which he commits crime. Research anywhere that continues to examine differences between a delinquent and non-delinquent population, or that seeks to analyze differences within the criminal group, can find its framework antedated by Lombroso. Contemporary endocrinological and biotypological studies are direct outgrowths of his most pervasive and consistent thinking. The clinical, psychological, and psychiatric analyses of today that report data on personality traits (some of which are dependent upon organic structure and function) are similar to, but much more refined and sophisticated than, many of the findings reported by Lombroso. The constitutional psychopath, or sociopath, is a psychiatric category only a little less nebulous and amorphous in conceptualization than terms and ideas used by Lombroso to designate similar individuals and specific forms of criminal behavior. The common multiple-factor analysis is related to his search for all kinds of positive facts. The wide diffusion of the deterministic (in lieu of the free will) approach to an understanding of crime and the most appropriate means for treatment should

be credited to Lombroso. In penology, his emphasis on the importance of understanding personality traits of the offender and on individualization of treatment has long been academically accepted and is increasingly employed in the administration of diagnostic centers, probation, parole, and classification systems. We now hold that the evolution of man has not been along the simple lines followed by Lombroso, and the theory that the criminal is physically atavistic has been abandoned. But his later concern with psychological differences among criminals has formed the basis for much contemporary research.

By his supporters Lombroso has been referred to as a scientific Columbus who opened up a new field for exploration, and his insight into human nature has been compared to that of Shakespeare and Dostoevski. Perhaps these encomia are exaggerations, but also from the man generally believed most responsible for refuting Lombroso we are told that "all thinking people today, legislators and judges, as well as the general public, the morality of the age, as well as the voice of science, attest the truth which Lombroso was the first to enunciate as the fundamental principle of criminology and penology: the principle that it is the criminal and not the crime we should study and consider; that it is the criminal and not the crime we ought to penalize."¹⁶¹ Even Bonger remarked that "Lombroso's merits in the field of criminal law are exceptionally great. He has, indeed, given the impulse to a revolutionary movement the effects of which cannot, as yet, be estimated."¹⁶² And van Kan says, "Cesare Lombroso has the glorious merit of having been the great instigator of ideas in criminology, he created systems and conceived of ingenious and bold hypotheses."¹⁶³ In his treatise on penitentiary science and social defense, Pinatel¹⁶⁴ in France

¹⁶¹ GOKING, *op. cit. supra* note 94, at 11.

¹⁶² Bonger, *op. cit. supra* note 37, at 76.

¹⁶³ VAN KAN, *op. cit. supra* note 131, at 59. Even Benedikt, who had often criticized Lombroso's theories, said at the Third Congress at Brussels (1892): "If Lombroso had created nothing more than the phrase *Uomo delinquente*, which contains a great idea and a great program, and had discovered nothing else than Enrico Ferri, he still would have done enough for Science to be immortal." ACTES DU TROISIÈME CONGRÈS INTERNATIONAL D'ANTHROPOLOGIE CRIMINELLE, *op. cit. supra* note 116, at 276.

¹⁶⁴ PINATEL, *TRAITÉ ÉLÉMENTAIRE DE SCIENCE PENITENTIAIRE ET DE DÉFENSE SOCIALE* (Paris 1950). Pinatel agrees with Vervaeck (*La théorie lombrosienne et l'évolution de l'anthropologie criminelle*, ARCHIVES D'ANTHROPOLOGIE 561 (1910)) that Lombroso was "the first worker of the reform of our judicial and

¹⁶⁰ SHELDON & ELEANOR GLUECK, *PHYSIQUE AND DELINQUENCY* 2 (1956).

gives credit to the positivist doctrine that developed from Lombroso and that has substituted for punishment, responsibility, and equality the notions of social defense, *témibilité* (the danger the individual presents to society), and individualization.

This review of Lombroso's work should dispel the contention of some contemporary authors that Lombroso and his school "delayed for fifty years the work which was in progress at the time of its origin and in addition made no lasting contribution of its own."¹⁶⁵ The fears of these critics that Lombroso diverted attention from social to individual phenomena reveal their basic misunderstanding of his work and its effect; for, as has been indicated, Lombroso served to redirect emphasis from the crime to the criminal, not from social to individual factors. The reciprocal inter-

relation of the individual and his society was a phenomenon he did not fail to consider. In any case, as Sellin has well said: "Whether Lombroso was right or wrong is perhaps in the last analysis not so important as the unquestionable fact that his ideas proved so challenging that they gave an unprecedented impetus to the study of the offender. Any scholar who succeeds in driving hundreds of fellow-students to search for the truth, and whose ideas after half a century possess vitality, merits an honorable place in the history of thought."¹⁶⁶ Living up to the etymology of his name, Lombroso illuminated the scientific study of criminal behavior with many provocative ideas and deserves a place of honor in his own field.

Lombroso's statements at the opening and closing sessions of the Sixth International Congress at Turin in 1906 provide a fitting close to this review of his life and work: "As the oldest soldier of Criminal Anthropology I have the honor of opening this Sixth Congress, which will be the last one for me, but for all of you will be only a step towards greater exploits. . . . Your energy more than reassures me for the toils, spent in thirty years of this work. The idea that it represents developed, strengthened and handed down to posterity by you will not die—*quasi cursores vitae lampada tradunt*."¹⁶⁷

¹⁶⁶ Sellin, *The Lombrosian Myth in Criminology*, (Letter to the Editor), 42 Am. J. Soc. 898 (1937).

¹⁶⁷ COMPTES-RENDUS DU VI^e CONGRÈS INTERNATIONAL D'ANTHROPOLOGIE CRIMINELLE, xxxi, xxxvi (Turin 1908).

superannuated penitentiary system." See Pinatel, *La vie et l'oeuvre de César Lombroso*, BULLETIN, SOCIÉTÉ INTERNATIONALE DE CRIMINOLOGIE 217 (2^e semestre 1959).

¹⁶⁵ SUTHERLAND & CRESSEY, *PRINCIPLES OF CRIMINOLOGY* 55 (5th ed. 1955). See also, Lindesmith & Levin, *op. cit.* *supra* note 81, who express similar views. In answer to the charge that Lombroso set back research in criminology fifty years, Sellin has said: "The fact that he succeeded in getting many psychiatrists and others with a natural science training to concentrate on the study of the offender could hardly have caused sociologists or others interested in environmental theories to fold their tents, nor is there the slightest reason to suppose that, had Lombroso never existed, the social science approaches to the problem of crime would have enjoyed any greater prosperity." *En historik aterblick*, *op. cit.* *supra* note 42.