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Articles

Crime, race, and morals : the development of criminology in Peru 1890-1930

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Résumés

Criminology arrived in Peru by the late 1880s, and with it the promise of both scientific explanations of crime and effective policies of crime control. As in Europe, Peruvian criminologists also debated the relative importance of biological and social factors in explaining crime tendencies. This article reviews the adoption and early developments of positivist criminology in Peru. It shows that the most radical versions of biological determinism were rejected by Peruvian criminologists in favor of a « social » interpretation of crime. But while some emphasized social injustice and poverty as central factors behind crime, most Peruvian experts paid closer attention to the cultural and « moral » traits of the lower groups, thus reinforcing the traditional view of crime as a moral phenomenon associated with certain racial, social, and occupational groups.

La criminologie, qui promettait à la fois une explication scientifique de la criminalité et des

politiques criminelles efficaces, parvint au Pérou à la fin des années 1880. Les criminologues péruviens, à l'instar des européens débattirent de l'importance respective des facteurs biologiques et sociaux dans l'explication du penchant au crime. Cet article passe en revue l'acceptation et les premiers développements de la criminologie positiviste au Pérou. Il montre que les criminologues péruviens rejetaient les versions les plus extrêmes du déterminisme biologique en faveur d'une interprétation « sociale » de la criminalité. Mais tandis que certains d'entre eux mettaient l'accent sur les injustices sociales et la pauvreté comme causes principales du crime, la plupart des experts péruviens privilégiaient les traits culturels et « moraux » des classes inférieures renforçant ainsi la perception traditionnelle de la criminalité en tant que phénomène moral lié à certains groupes ethniques, sociaux ou professionnels.

Texte intégral

Introduction

- 1 By the late 1850s, crime as a « social problem » – i.e., a phenomenon that went beyond the accumulation of individual violations of the law and became a sort of pathology that threatened the social, moral, and political order – was invented in Peru as an authoritarian-conservative reaction to a series of social and political changes. The anxieties generated by social reforms such as the abolition of slavery (1854) and the abolition of the death penalty (1856) and by shocking events such as the violent artisans riots of December 1858 resulted in the generalized perception among lawyers, politicians, travelers, and other elite commentators that « crime » had become a major social problem. Once invented, the representation of crime as a social problem was appropriated by different sets of experts and policy-makers of diverse ideological persuasions who, nonetheless, shared the same concerns with moral decay and social disorder and the same disgust for popular forms of socialization. Successive waves of economic and social crisis (dramatically accentuated during and after the War of the Pacific, 1879-1883), and the ever-growing cultural distance between Europeanized elites and multiethnic plebeian groups, further contributed to the construction of crime as a « social question » whose dimensions, however, were not always deemed « alarming ».
- 2 Representations of the « criminal problem » did not respond solely to immediate causes or events, for they were built upon a series of pervasive discourses about the lower and colored classes that usually coalesced into a singular narrative: the supposed « moral degeneration » of the lower classes of Lima, a phenomenon allegedly affecting particular racial and social groups (blacks, Indians, Chinese, the urban plebe), specific urban environs (some neighborhoods of Lima), and even certain trades (domestic servants, peons, street vendors). « Lack of morals » was a condition associated with multiple manifestations of lower-class culture, and explained by a combination of factors, one of the most influential being the lack of severe punishment. The time-honored notion that the most effective way to achieve order and obedience was the use of violence and severe punishment, translated into paranoia once severe forms of social control – such as slavery or the death penalty – were removed.
- 3 In the late 1880s criminology, the new science of the criminal, arrived in Peru and with it the promise of both scientific explanations of crime and effective policies of crime control. As it happened in Europe, Peruvian authors got also engaged in discussions about the « scientific » explanations for criminal behavior. The relative importance of biological and social factors in explaining crime tendencies was a subject of intense debate. This article reviews the adoption and early developments of

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positivist criminology in Peru. It shows that the most radical versions of biological determinism were rejected by Peruvian criminologists in favor of a « social » interpretation of crime. In so doing, however, Peruvian criminologists emphasized those « social » elements that were most closely related to the « moral » composition of the lower and colored groups, thus reinforcing – instead of overcoming – the traditional view of crime as a moral phenomenon associated with certain racial, social, and occupational groups.

In search of the born criminal

4 Criminology developed in Europe during the last quarter of the 19th century. According to some authors, its origins need to be located in the late-18th-century attempts to isolate the « causes » of crime, from where it would have gradually evolved until crystallizing, by the late 1870s, into what was first named « criminal anthropology »². Other scholars, without denying the importance of those antecedents, emphasize the radical difference in nature and purpose between criminology as a scientific discourse and previous, less articulated approaches to the study of crime³. Positivist criminology – whether we consider it the first true science of the criminal or only a modern version of it – incorporated various streams of nineteenth-century thought that included phrenology, physiognomy, statistics, the evolutionary theories of Darwin and Spencer, and the positivist persuasion that laws could explain social phenomena. It also benefitted from the proliferation of state records on criminals and prisons. Its influence rapidly expanded throughout the world and became, in less than a decade, one of the most attractive intellectual constructions of the nineteenth century⁴. Criminology reached an audience well beyond the small circle of specialists, for it not only offered new interpretations about crime and criminals, but also « scientific » solutions to a variety of social concerns. As David Horn among others has noticed, positivist criminology elaborated « not only a new view of the criminal, but also a new view of society ». The liberal view of society – « a collection of autonomous individuals, each equipped with free will, and responsible for his or her own actions » – was replaced by the image of society as « a social body, with its own laws, regularities, and pathologies, which had to be known by new sciences and managed according to new rationalities of government »⁵.

5 The birth of positivist criminology is generally associated with the publication, in 1876, of Cesare Lombroso's *The Criminal Man*. In his famous treatise, Lombroso argued that there were human beings whose inclination to crime was innate or inherited – thus, they were « born criminal ». He also believed that it was possible to identify potential criminals by observing some of their physical characteristics (what Lombroso called « stigmata »). Lombroso viewed criminals as representing a regression to more imperfect stages in human evolution, which led to his conceptual identification of criminals with « primitive » peoples and non-white racial groups⁶. Lombroso's theory of the « born criminal » became the center of a passionate debate. His books and articles – and those of his disciples, especially Enrico Ferri and Raffaele Garofalo – circulated all over the world and were used to generate knowledge about « deviants » in quite different contexts⁷. In Europe itself, Lombrosian criminology was subject to stern criticism, especially by French scholars Gabriel Tarde and Alexandre Lacassagne, who rejected the idea of the born criminal and emphasized the social nature of crime. The two « schools » confronted each other at a series of international conferences, and these debates also reached and were reproduced in the rest of the world⁸.

6 In Latin America, legal, social, and medical debates about crime and criminals began also to incorporate, from the late 1880s, the premises of positivist criminology. First lawyers, and then physicians, avidly read foreign-language criminological treatises, disseminated their content in newspaper and magazine articles, wrote university theses, and vehemently debated the ideas of Lombroso and his followers. Reactions to Lombrosian criminology varied widely, ranging from acritical endorsement to furious rejection. Although actual criminological research was slow to come, some authors (Carlos Roumagnac and Julio Guerrero in Mexico, Nina Rodrigues in Brazil, José Ingenieros in Argentina, or Fernando Ortiz in Cuba) produced studies whose value and interest went beyond the mere issue of crime and criminal behavior and touched on problems of national identity, racial politics, and state formation, thus having a tremendous influence on intellectual and political debates. The impact of positivist criminology in penal legislation and prison reform would not be felt until later, especially in the 1920s, but public and official discourses on crime, race, sexuality, and related issues were greatly influenced by criminological theories since at least 1890⁹.

7 In Peru, prominent jurist, sociologist, and university professor Javier Prado was the first to comment favorably and extensively on the excellences of positivist criminology. In a thesis written in 1890 Prado commended the « positive or experimental method » as « the only legitimate direction applicable to all sciences », including what he called « penal sciences »¹⁰. He launched a frontal attack on the classic school of penology represented by Beccaria and, following the postulates of the new paradigm, demanded that the focus of criminal science must shift to the criminal, his physical and moral constitution, and the influence of nature and the social milieu on the criminal's character¹¹. While Prado accepted the idea that the organic or biological constitution of the subject influenced his/her spiritual and moral condition, he distanced himself from the extreme biological bias of Lombrosian criminology and endorsed Gabriel Tarde's remarks that Italian criminologists, « marveled » with biological determinism, were not paying enough attention to the « social » factors of crime¹². This did not preclude Prado, however, from endorsing the many creeds of positivist criminology : attention to biology and heredity, the need for an individualized treatment of the criminal, the correlation between crime and diseases such as epilepsy or « moral insanity », and the need to focus on the criminal – and not on abstract notions of « crime » – as the only way to decipher the mysteries of criminality.

8 Prado's enthusiasm for positivist criminology was quickly followed by numerous university theses, pamphlets, and articles in newspapers and specialized journals. Reactions ranged from acritical endorsements of Lombrosian criminology to hostile rejections of the « exaggerations » of the Italian school. Most writings, for and against, consisted mainly of abstract or doctrinal disquisitions, mere synthesis or recapitulations of Lombroso's, his disciples', or his detractors' writings¹³. Very rarely did early Peruvian criminologists venture into actual research in order to produce original knowledge or, at least, to « test » Lombroso's claims, which is revealing of the rather rhetorical appropriation of positivist criminology by Peruvian intellectuals. And when they did conduct « research, » the scientific nature of it is rather dubious, even by the standards of their time, as is evident in the work of Paulino Fuentes Castro, a lawyer and director of the legal newspaper *El diario judicial*, and Abraham Rodriguez, a physician and professor at the University of San Marcos Medical School, who attempted to apply Lombroso's theories to the study of Peruvian criminals.

9 Fuentes Castro was among the first to adopt the rhetoric and dogmas of Lombrosian criminology, and the pages of his *El Diario Judicial* were an important vehicle for the dissemination of the postulates of the Italian school. He blatantly stated that « criminality is a state of war launched by a certain type of men¹⁴ who have remained

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behind in the evolution of sentiments of humanity and probity, against the rest, that constitute the majority (...) Crime is not an isolated human act, but the revelation of an existence incapable of adapting to the social milieu »¹⁵. Fuentes Castro published between 1892 and 1893 a series of biographical sketches of famous criminals that was conceived as a sort of Peruvian gallery of Lombrosian types. While these sketches were presented as criminological – i.e. scientific – studies, they actually consist of an arbitrary mixture of prejudices, common-sense notions, and a literary style that owe more to the still fashionable disciplines of physiognomy and phrenology than to positivist science.

10 Fuentes's portrait of the famous criminal Chacaliaza illustrates this point¹⁶. Manuel Peña Chacaliaza was an Indian inhabitant of the small town of Guadalupe, in the southern province of Ica, who after murdering a cousin was condemned to 14 years of seclusion in the penitentiary of Lima. On September 20, 1876, after two years of confinement, he escaped from the high-walled prison. He was thought to be raiding Lima's roads for almost a year until he was recaptured after an incident with the police. In Fuentes Castro's reconstruction Chacaliaza was presented as « one of the most perfect criminal types », « a sort of terrible mythological being, whose memories alone generated terror », a « moral phenomenon, contrary to the laws of the [human] species », whose instinct « forced him to kill for the mere pleasure of killing », and who supposedly enjoyed witnessing his victims' agony. Chacaliaza, Fuentes Castro went on, illustrated what Lombroso had said about the character of the born criminal : he did evil for the sake of evil. He found that his physiognomy revealed, among other anomalies, « a clear facial asymmetry ». If he were alive he would be the best proof that, in fact, « man is not perverse by choice, but because of organic disequilibrium, which forces him to commit crimes with the same fatality with which objects are attracted to the center of the earth ». What is worth emphasizing here is the fact that Fuentes Castro constructed his « criminological » portrait of Chacaliaza from the series of rumors and myths that circulated in Lima during and after the period in which Chacaliaza was a fugitive, to which he added a few stereotypical features about « Indians » and « criminals ». He duplicated the newspapers' reports about the numerous (and in some cases horrendous) crimes attributed to Chacaliaza during the year he was a fugitive, but was not aware (or preferred not to disclose) that during the trial it was demonstrated that Chacaliaza, in fact, did not commit any of them. All the testimonies confirmed that he had been peacefully working as a peon on nearby agricultural estates¹⁷.

11 Abraham Rodríguez, on the other hand, proposed a typical Lombrosian research project : he went to the penitentiary to measure the convicts' physical attributes in order to identify the features of the Peruvian born criminal¹⁸. Just by looking at the photographic gallery of the penitentiary inmates Rodríguez was convinced that some of them had the signs of the born criminal, something he « confirmed » after conducting individual exams. His research allowed him to support Lombroso's claim about the « cephalic index » of the criminal man, to establish a connection between types of crimes and the size of the cranial hole, to establish that born criminals comprised about 10 % of the penitentiary inmates, and to infer that all those born criminals presented a « plagiocephalic deformation » which he identified as the sign of innate criminality among Indians.

12 In these two cases, the aim of the criminological enterprise was to corroborate the Lombrosian theory of the born criminal. The authors did so by engaging in dubiously scientific research, by duplicating Lombroso's claims, and by actually manipulating data in order to fit the theory. Biological explanations of crime were accepted and, allegedly, confirmed after first-hand research. Both authors, in addition, attempted to

delineate the image of an inborn « Indian criminal » and to construct « perfect » Lombrosian types out of the Indian criminals they studied.

- 13 The discovery of Indian criminality as an issue and the Indian criminal as a type - both by-products of the spread of criminology and its search for criminal types - were in fact built upon (and thus used to « confirm ») pervasive images of Indians projected by elite racist writers. In these depictions, Indians were presented as either passive, acquiescent, and inert beings, incapable of any initiative or will (the « indio manso » version), or as essentially violent, inhumane, cruel, and dangerous (the « indio bravo » image). The preeminence of either of these two images fluctuated with the specific historical moment or the particular gaze of the commentator, but they were frequently merged by writers that portrayed the Indians as « acting » as passive but being in essence truly violent and criminal : the Indian-as-hypocritical kind of image¹⁹. Building upon this duality of images – whose antecedents can be traced back to colonial times – early criminologists tried to construct, with the aid of science, the notion of an atavistic, inborn Indian criminal capable of performing horrendous crimes. Similar images had been disseminated in moments of social tension (the period after the massive anti-colonial rebellion led by Tupac Amaru in 1780, for instance), but now the discourse was being backed by an allegedly scientific framework. Criminal anthropology, with its emphasis on biological imperfections, the effects of climate and environment, and its depiction of non-whites as irremediably inclined to crime, seemed to confirm the assumptions of racist elites in 19th-century Peru : Indians were, in essence, true criminals. As we will see, however, for a variety of reasons biological explanations of crime and the depiction of Indians as « born criminals » were not condoned by most Peruvian criminologists.

The « social » nature of crime

- 14 Attempts to develop a Peruvian version of Lombrosian criminology did not prosper. From the very beginnings of the spread of the new science there were voices of skepticism coming from those that rejected the notions of inborn criminals and argued for a truly « social » approach to criminality. While most authors simply repeated or summarized what eclectic European – mainly French – criminologists had written against Lombroso and his disciples, a few of them actually ventured into (not always exemplar) research and produced valuable treatises on crime in various regions of Peru.
- 15 The earliest effort was that of University of San Marcos graduate Plácido Jimenez, who offered both a comprehensive review of criminological theories and a thorough statistical and descriptive examination of crime in Lima²⁰. He was adamant in rejecting Lombroso's theories²¹, but, somehow contradictorily, admitted that there were human beings of « congenital perversity » that could not be reformed by any penal treatment. The born criminal was thus defined as « the man that in practice resists every correctional treatment »²². Regarding the causes of crime, Jimenez concurred that they included the « physical-psychical » constitution of the delinquent, the nature surrounding him, and the conditions of society as a whole. But it was social factors which he, following Tarde and Lacassagne, considered the most prominent, a conclusion that he found « consoling » because legislators « could improve the conditions of society » and, thus, eliminate crime. The « social » causes of crime he referred to include « vagrancy, prostitution, gambling, pauperism, and the impunity of crimes committed by members of the upper classes ». He emphasized that moral decay among the lower classes led to a life of crime : « Among the lowest tiers of society,

moral sentiments are enervated, the notion of justice is still embryonic, and they never pause to prepare for the future ». In other words, it was the moral constitution of certain sectors of society which should be blamed for the commission of crimes. Accordingly, his proposed « solutions » included the demand for firmer state intervention to contain social disorder and demoralization : « social prevention » became the only means to eliminate crime. In fact, it was a matter of « social hygiene », for criminality could be compared to a contagious disease. Prevention, he added, should focus especially on children and must include education, the creation of charities and welfare agencies, the promotion of religious sentiments, the elimination of impunity, the search for political stability, the improvement of laws, and the repression of drinking and gambling.

16 Years later, other authors will further develop these themes in a series of important studies of Peruvian criminality²³. While racial, biological, and hereditary factors were not totally expunged, these authors paid more serious attention to social factors ranging from demoralization to exploitation, from ignorance to imitation, from prostitution to alcohol consumption. The novelty was the inclusion of social injustice and the semi-feudal exploitation of Andean Indians as important factors behind their commission of crimes. Jose Antonio Encinas, for example, emphatically argued that the Indian was not a degenerate and that « an enormous percentage of Indian crimes respond to causes of a social nature », namely, exploitation. Physician Hermilio Valdizán, who had stated that crime must be treated as a biological phenomenon, ended up asserting that « exogenous » factors were particularly important in the case of Indian criminality. According to him, « in a context of servitude, [living] under a system of incessant oppression, their violent reactions are easily understandable. And because these conditions, instead of decreasing, are being accentuated, the figures of Indian delinquency tend to grow »²⁴. Villavicencio's *Sociología criminal peruana* included lengthy discussions of banditry, Indian crime, prostitution, and the influence of economic factors on crime. He argued, for example, that all the defects attributed to the Indian – cruelty, laziness, ignorance, and absence of sentiments of honor, nationality, or class – were the result of an exploitative feudal system. « All their energies have been used not in becoming a select biological type, but in defending themselves from economic, political, and social oppression »²⁵. It becomes clear from these quotations that, while these authors rejected simplistic biological/racial explanations of social behavior, none of them challenged the established images of degenerated Indians prone to commit violent, even savage crimes. In a subtle and paradoxical way they were indeed perpetuating old stereotypes about Indians.

17 The lack of enthusiasm among Peruvian criminologists towards biological explanations of crime responded to multiple causes, the most important of which was the changing nature of racial discourses among Peruvian intellectual elites. Several scholars have noticed a shift in racial discourses by the turn of the century. The most radical forms of racism (those that depicted Indians, Blacks, and Chinese as biologically inferior) were displaced – though not totally suppressed – and « degenerated » races – Indians, especially – were no longer considered irremediably « lost » but « redeemable », for their degeneration was located not in biological but in cultural traits²⁶. Blatant racist manifestos such as Clemente Palma's *El porvenir de las razas en el Perú* were gradually dismissed²⁷. Historian Fredrick Pike has labelled as « neopositivist » those intellectuals that, by the late 1880s, began to rethink the typically Darwinist racial theories held by Peruvian intellectuals and became more concerned with « benefiting and uplifting rather than suppressing and eliminating the Indians »²⁸. Turn-of-the-century political and ideological debates on the fate of the Peruvian nation and the role different social and ethnic groups would play in the

construction of Peruvian future also began to reflect this influence. In most of these interventions, biological racism was replaced by a more optimistic approach that emphasized the potential contribution of Indians – Blacks and Chinese were not of particular interest for these authors – and *mestizos* (persons of mixed origin) to the creation of a national community. Ideologists and social critics such as anarchist Manuel Gonzalez Prada, marxist José Carlos Mariátegui, and *aprista* Víctor Raúl Haya de la Torre, to mention but the most prominent, went even further as to present the Indian problem as *the* central social question of contemporary Peru. According to them, the so-called Indian question was not a racial but a social issue whose solution demanded radical social and political reforms²⁹.

18 As Peruvian sociologist Gonzalo Portocarrero has argued, this gradual retreat from biological racism was the result of the awareness, among Peruvian ideologists, that biological racism left no hope for the future of the country, given that the majority of the population was of non-White origin. As was also the case of other Latin American countries such as Mexico, Brazil, or Cuba, biological racism had to be rejected if there was going to be any hope for the future of the Peruvian nation, no matter how it was defined. Beyond hopes of massive European immigration and the concomitant « whitening » of the population – dreams that were never actually fulfilled – Peruvian ideologists had to contend with the obvious fact that the country's future would have to be built with those non-white groups that comprised the overwhelming majority of the Peruvian population. The obliteration of radical biological racism thus helped to discredit extreme biological explanations of crime. Criminologist Víctor M. Villavicencio put it in a blatant way : « To accept as absolute and irremediable the Indian's deficiencies would be to renounce to the great mission of incorporating them into civilization. Science has effected so many prodigies, even with abnormal beings, that we should not lose our hope for perfecting him. Otherwise, we would have to exterminate them. And to wipe out the Indigenous race would mean the disappearance of Peru as a biological organism. This homicidal opinion is no longer shared even by those *mestizos aristocratistas* whose colonial spirit made them sympathetic to the thesis of the negative value of the Indigenous race. »³⁰

19 These ideas were also tributary of those held by *Indigenistas*, the group of mostly urban, middle-class, and non-Indian writers, artists, and political activists that, especially since the beginning of the twentieth century, had been denouncing the harmful legacy of colonialism, the exploitation of Indians by *gamonales* (powerful local bosses) and local authorities, and misery, alcoholism, and coca abuse among the Indians, blaming all these factors for the « degeneration » or « prostration » of the Indian race³¹. *Indigenismo* clearly contributed to shape the stands of criminologists towards biological explanations of crime, particularly regarding Indian criminality. As can be seen in the writings of criminologists such as Encinas and Villavicencio, the Indians' wretched conditions and the exploitation they endured were often rendered as major sources of crime. More importantly, Indigenista emphasis on the possibilities of redemption for the Indian « race » helped to discredit claims of an essential and immutable biological proclivity for Indian violence and crime. While Indigenistas generally espoused a paternalistic, essentialist, and often racist approach to Indian culture and society, and even though their approach tended to homogenize « Indians » as if they belonged to a single, uniform « culture », they nonetheless helped to counter ideologies based on extreme biological racism³².

20 The relative obliteration of biological racism and the rejection of biological explanations of crime were thus mutually reinforcing intellectual phenomena. But equally important is the fact that both left room for the continuation of other, more subtle racial discourses. More often than not, Peruvian criminologists incorporated

race or racial features in their list of contributing factors to criminality. A startling example is Ladislao Graña, who in a thesis entitled precisely *The social factors of delinquency in Peru* listed « race » at the top of his list. And even if he concluded, at the end of his essay, that « the lack of means of subsistence is the direct source of crime and contributes to moral degeneration », he still believed that racial characteristics contributed to shape criminal conduct. He went even further, accepting the idea that the four constitutive « races » of Peruvian population were « inferior » (Spanish, Indian, Black, and Chinese, the latter occupying « the lowest tier of humanity ») and, thus, only white immigration would improve the Peruvian racial make-up³³. The portraits of Indians, Blacks, and Chinese that criminologists influenced by *Indigenismo* presented were usually negative and distant. Just to offer one example, criminologist Víctor M. Villavicencio espoused these ideas about the Indian : « Today's Indian is the Indian of colonial times. The process of his life has not gone through noticeable changes. He lives like an animal, following a routine, without any type of aspirations. His ideal is to accumulate a few cents – the result of a brutalizing effort – in order to spend them in a Sunday drinking. If he raises over his peers, it is only to become a tyrant »³⁴. The only difference between these authors and the previous generations of radical, biological racists, seems to be that the uplifting of « degenerated » races, instead of depending on racial miscegenation with « superior » – i.e. White – races, was made contingent on education and (coercive) moral reform.

21 What actually happened was a sort of conceptual shift regarding the way « race » was constructed. Instead of defining it in terms of a set of biological, hereditary, and thus immutable traits, « race » acquired more of a cultural content – attitudes, norms, values, customs, language or, to use the language of the era, « morals ». This meant that the « Peruvian race » could be improved, chiefly through compulsory education and the elimination of some of the factors leading to degeneration. Racism did not disappear, but it was somehow redefined. Once it was clear for Peruvian elites that, first, they could not present themselves as belonging to a « superior » race, and second, that if biologically-inferior races populated this country then there would be no possible future, they adjusted their rationale for constructing the distance with people for which, after all, they felt little empathy. Thus, it was not biology but culture, moral, manners, sobriety, and taste what would establish the difference.

22 By depicting the lower classes as lacking morals, habits of industriousness, and/or education, Peruvian elites justified energetic social control and exclusionary politics, transforming the war on crime into a campaign for authoritarian moral reform – thus prolonging an old, 19th century pre-positivist discourse. The line between the social conditions of existence and the inner morality of the lower classes remained blurred. The association that Villavicencio established in 1930 between crime and the conditions of living in Lima's *callejones* (tenement houses) is quite relevant in this context : « The *callejón*, in Lima, is the best school of vice and crime. Close to honest people live vicious individuals, exploiters of women, all sorts of rogues. Immoral or bloody scenes are frequent. And because life is lived in common, children receive the early influence of scandals and bloody acts committed by dangerous subjects, who confuse love and crime (...) *Callejón* and crime are two inter-related words. Let us examine any recidivist criminal, any habitual delinquent, and we will conclude that his vices and criminal ideas were originated in the *callejón*. »³⁵

23 By rejecting biological explanations of crime, thus, criminologists offered an « optimistic » view of Peruvian future : criminals (in fact, the lower classes) were redeemable, not by any intrinsic mutation, but as the result of education, rehabilitative punishment, and the policing of morals. Redemption, in fact, meant the internalization

of a set of (basically Western) cultural values that were deemed superior. And by constructing crime as a « social problem » whose roots were in cultural aberrations, or, in fewer cases, by offering the « protection » of the state to those abused and « uncivilized » Indians so to have them productively working instead of turning to violence and crime, they offered a « scientific » basis for more intrusive forms of social engineering. The case of José Antonio Encinas, probably the most « progressive » criminologist of his time, is highly revealing : he blamed exploitation and abuse for the crimes committed by Indians, but to correct that situation he proposed that the state should enact « tutelar » legislation to « protect » them, especially because « the Indian is the main factor in the economic development of Peru, and it is hard to replace him »³⁶.

Themes and variations : scientific criminology and its legacy

²⁴ Scientific criminology, regardless of the position taken by its practitioners towards Lombrosian views, gradually became the dominant paradigm in specialized discourses about crime in Peru during the period 1890-1930. This was a period of economic modernization and continual oligarchical political and social domination, but also a period marked by the emergence, of alternative societal discourses and radical political movements such as socialism. President Augusto Leguía's second term (1919-1930) took some distance from the traditional landed aristocracy that had governed in the period 1895-1919 (the so-called « Aristocratic Republic »), affecting its political power but leaving almost intact the economic and social bases of its preeminence. Leguía embarked Peru in an accelerated process of modernization (particularly in areas such as foreign investment, industrial production, infrastructure development, and the rationalization of the government), but did very little (despite strident rhetoric) to alter the legal, social, and cultural marginalization of the rural and Indian majority of Peruvians. Leguía's obsession with all emblems of « modern » societies was carried onto different aspects of legislation. In 1924, a new penal code was enacted, reflecting both the regime's concern with the « modernization » of law and the hegemony that positivist criminology had attained among experts in crime and criminal justice.

²⁵ Criminologists applauded the incorporation of many of the principles of positivist criminology into the new penal code : the indeterminate sentence, the idea of penal irresponsibility for « dangerous non-imputable crimináis », the tailoring of the penalty to the degree of « dangerousness » of each individual, conditional freedom, and many others. The « defense of society » – a concept developed in Europe and the United States, according to which society had the right to defend itself from dangerous individuals, and that became the ultimate rationale for severe punishment – became the overall doctrinal framework of the new Penal Code³⁷.

²⁶ One of the innovations of the 1924 penal code was the treatment it accorded to the Indigenous population. It allowed – in fact, demanded – tribunals to take into consideration every mitigating circumstances in the commission of crimes that may come from the fact that the perpetrators were « savages » – the native tribes of the Amazon region – or « semi-civilized » or « alcoholized » Indians – the inhabitants of the Andean region. According to the Penal Code, those two « groups » lacked the knowledge, sensibility, and morals of the « civilized » portion of Peruvian population – urban, educated, and non-Indian – and, consequently, must be considered relatively unimputable³⁸. This paternalistic attitude was explained by Víctor Maúrtua, author of

the Code, on grounds of the supposed benign character of Peruvian Indians : « Most [criminals] are Indigenous. Their character is sweet, their moral constitution does not require severe and prolonged repression. Among [Peruvian] criminals, deprivation and permanent perilousness do not prevail »³⁹. The ultimate purpose of such a « benign » legislation (in which it is hard not to notice the influence of *Indigenismo*) was to achieve the Indian criminal's « full readaptation to a honest and free life », which was to be accomplished at agricultural penal colonies in which « savages » and « uncivilized Indians » were to receive a treatment that would « readapt » them into the « juridical framework of the country ». In the words of anthropologist Deborah Poole, the purpose was to transform the Indian into a « correct juridical subject »⁴⁰.

27 As Hurtado Pozo and Poole have argued, the Penal Code opted for an assimilationist/paternalistic attitude towards this population coherent with the dominant paradigm : the Indian ought to be incorporated into the « national » community through compulsory education, rehabilitative punishment, and the polishing of Indigenous cultural norms. Underneath the alleged « protection » that the state was to grant the Indigenous population through « tutelar » legislation, subsisted a typical neo-colonial attitude regarding the culture, history, and social values of the Indigenous population.

28 The orientation of the code also reflected the growing prominence that medical views of crime were gaining at that time. Since at least the mid-1850s, physicians contributed – in theoretical and practical ways – to the formulation and study of social problems in general and of crime in particular. Specialized journals such as the *Gaceta Médica de Lima*, for instance, paid attention to a variety of « social problems » – epidemics, crime, alcoholism – and also hosted debates about juridical matters, especially the legal status of crimes committed by alcoholics or insane persons. Physicians were consulted in cases in which their opinion was considered crucial for elucidating matters related to the crime, the perpetrator, or the victim⁴¹. The advent of positivist criminology fostered the belief that physicians and not lawyers had to evaluate the criminal, decide his or her culpability, and outline a treatment or cure for him or her, an idea that was fiercely resisted by jurists and lawyers⁴². By the early 1920s, medical rhetoric began to gain predominance among the community of criminologists. Doctors Hermilio Valdizán, Carlos Bambarén, and others supported the « medicalization » of crime and, both in theory and practice, tried to establish a link between criminal behavior and diseases such as insanity, epilepsy, and alcoholism⁴³. During the late 1920s, Dr. Carlos Bambarén conducted a series of studies, mostly of individual criminals whom he found to be victims of pathologies beyond their control⁴⁴. But despite the efforts of Valdizán and Bambarén, a « medical » approach to crime failed to convince the larger community of criminologists and, especially, prison officers, for whom it was hard to accept that their subjects were not to be held liable for their crimes but, instead, should receive care and treatment as medical patients. Their eclecticism, nurtured by stubborn notions of the criminal population as one lacking morals, was compounded by the shortage of resources needed to implement criminological clinics and other such devices, thus turning the « medicalization of crime » into a mere formal innovation lacking concrete effects in the treatment accorded to the criminal population.

29 But if a medical approach to crime was not universally embraced, almost all criminologists agreed that the notion of *peligrosidad* (perilousness) had to be a central component of both criminological analysis and penal policies. A product of either hereditary features or the social environment, « dangerous subjects » had to be isolated, treated, and eventually punished in order to protect society from their evil influence. Criteria for determining the degree of dangerousness generally included an

inquiry into the person's ancestors, education, clinical records, anthropological features, penal antecedents, and so forth. It was to be this degree of dangerousness, as determined by experts (criminologists and psychiatrists), which would decide the « treatment » the criminal was to receive. According to this criteria, for example, Indians living under conditions of isolation and poverty, victims of alcohol and coca abuse, or subject to the exploitation of the *gamonales*, were all considered dangerous and, thus, needy of some sort of surveillance and treatment⁴⁵. Susana Solano offered in 1937 a doctrinal consolidation of the notion of dangerousness, emphasizing the importance of appreciating the « non-criminal » forms of perilousness – which included prostitution, gambling, homosexuality, and alcohol addiction. Tutelar measures were needed, she suggested, in order to eradicate the morbid factors that gave origin to such dangerousness⁴⁶. We have come almost full circle : underneath the positivist rhetoric and the use of « scientific » concepts such as dangerousness, we can hardly avoid noting the pervasiveness of customary discourses about the lower and colored classes. The same cultural and social elements that were targeted by mid- and late-nineteenth-century writers as constitutive elements of criminal behavior, were now being offered as justifications for an even more interventionist tutelar action by state agencies. As jurist Alfonso de las Casas wrote in reference to juvenile criminals, « the cause of delinquency among these youngsters is only one : their own life »⁴⁷.

Conclusion

30 This essay has shown that Peruvian criminologists generally rejected simplistic racial/biological explanations of crime and opted for depicting it as the product of multiple causes, most of them related to social practices and popular customs and, in some cases, with social injustice and inequality. While Peruvian criminologists appropriated the bulk of positivist criminology dogmas (the demand for a scientific study of the criminal, the attention due to biological and hereditary features, or the importance attached to medicine in the treatment of criminals) they tended to avoid the most extreme versions of Lombrosian biological determinism when trying to explain crime. The construction of hegemonic national projects demanded the dismissal of biological racism if there was to be any hope for their materialization. That realization forced Peruvian ideologists to retreat from biological racism but not from other, more subtle but no less effective forms of discrimination, exclusion, and repression. Indians and criminals were considered « redeemable », but, for Peruvian modernizing elites, that redemption required a compulsory operation of rescue by the forces of civilization. Only after a process of cultural and social sanitization would the Indigenous population be accepted as members of the national community.

31 The so-called « social » approach to crime was constructed in such a way that it was highly appealing for Peruvian modernizing elites. « Social » causes of crime such as prostitution, gambling, child abandonment, concubinage, laziness, and lack of morals, as presented by criminologists, tended to blame the lower classes themselves and their « uncivilized » cultural norms for the commission of crimes. « Scientific » criminology in fact tended to reproduce, adorned with a new language, an old discursive construction : the lower, non-white population lacked « morals, » had suffered a process of « degeneration, » showed all the signs of « dangerousness, » and were prone to criminal behavior, all of which required, in defense of society, a major interventionist effort from the state through « tutelar » legislation and compulsory « civilization. »

32 Criminology as a discipline encompasses a dual nature. It is both a form of inquiry

about specific human beings and problems – as defined by scientific and legal criteria –, and a set of propositions that foster more intrusive forms of state intervention and regulation of the lives of the population. In both regards, criminology is a truly modern discipline. Its appropriation by Peruvian intellectuals, however, adopted a peculiar fashion : it demonstrated a rather weak commitment with scientific inquiry but a strong bias towards the interventionist side. Criminology in Peru generally reproduced what seemed to be well-proven interpretations, presenting them as « scientific » discoveries guided by positivist methods. As such, they reinforced traditional images of the lower and colored classes, and recirculated notions of moral degeneration as the central cause of crime. Criminologists, by presenting themselves as « scientists » gained increasing audience among statemakers and greater professional legitimacy. They became involved in policy-making, especially during the 1920s, when the most prominent of them ended up working for the Leguía government and, from that position, tried to influence criminal policies. The « solutions » proposed by the experts on crime (especially those related to criminological/medical research and treatment, the implementation of anthropological cabinets, and various aspects of prison reform) were more likely to be adopted in doctrine and legislation than in practice. Despite this lack of effectiveness, however, criminologists did contribute to legitimize the state's and ruling elites' exclusionary policies towards the Indigenous and lower classes and to justify the repression against them on the grounds of cultural and social « degeneration ».

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Notes

- 2 The term « criminology » was invented later, in 1885, by Raffaele Garofalo. We use it here as synonymous with « criminal anthropology », the first name given to the new discipline. See Bierne (1993, p. 233-238). Bierne himself and Laurent Mucchielli are among those scholars that place the birth of criminology at an earlier age. See Bierne (*Ibid.*), and Mucchielli (1994). According to Mucchielli, « Lombroso n'est pas un 'fondateur' mais un héritier ».
- 3 David Garland, for instance, argues that writings on crime of the late 18th- and early 19th-century are part of « criminology's genealogy » but « did not constitute a criminology ». He identifies criminology with a specific genre of inquiry about criminals whose foundations lay in the idea that science can provide rational explanations for criminal behavior and that it was possible to separate, for cognitive and political purposes, criminals from non-criminals, both assumptions being absent in earlier approaches (Garland, 1994).
- 4 Garland (1985).
- 5 Horn (1995, p. 122).
- 6 On this see Gould (1981, p. 122-145), and Pick (1989).
- 7 In many colonial and post-colonial societies Italian positivist criminology was rapidly appropriated and, in most cases, was linked to ideas about racial hierarchies. Notions of degeneration, atavism, unfitness, and the like, were associated not with specific social groups, but with specific races. See, for example, Tolen (1995, p. 78-108).
- 8 On the debates between Lombrosian criminologists and their French rivals see especially Pick (1989), Wright (1983), and Renneville (1994).
- 9 On criminology and its impact in Latin America see Del Olmo (1981), Salvatore (1992), Buffington (1995), Salessi (1995), and Piccato (1997).
- 10 Prado(1890).
- 11 Prado(1890, p. 54).
- 12 Prado(1890, p. 133).
- 13 For a few examples see Muñiz (1891), Ríos (1897), Calderón (1904), and Medina (1907).
- 14 Most criminologists of this period refer to the criminal as a male subject.
- 15 Fuentes Castro (1893).

16 Fuentes Castro (1892).

17 I found the record of Chacaliza's trial in the Archivo General de la Nación (National Archives), Lima, Section RPJ, Leg. 352, 1877.

18 Rodriguez (1899).

19 On these competing images of the Indian see, in particular, Thurner (1993, esp. ch. 5) and Kristal (1987, p. 39, 202-203). See also, on the various representations of the Indian in 19th- and early 20th- century Peru, Méndez (1996), Poole (1997), and Walker (1991).

20 Jimenez (1898).

21 «The existence of the inborn criminal causes repugnance to our reason ; we found it impossible to believe that there exist persons condemned to be devoured by the world of crime ». Jimenez (1898, p. 118).

22 He estimated that 5 % of all criminals were innate.

23 This section refers mainly to studies by Hermilio Valdizán (1910), José Antonio Encinas (1919), Oscar Miró Quesada (1922), and Victor M. Villavicencio (1930).

24 Valdizán (1910, p. 147).

25 Villavicencio (1930, p. 65).

26 Portocarrero (1995). See also Pike (1967, p. 159), and Degregori, n.d.

27 Palma (1897). For similar racist statements see Clavero (1896) and Arrús (1906).

28 Pike (1967, p. 159).

29 Gonzales Prada (1983, [1904]) ; Mariátegui (1928) ; Haya de la Torre (1927).

30 Villavicencio (1930, p. 72-73).

31 *Indigenismo* is of course a much more complex intellectual and political phenomenon than what these brief mention might suggest. For recent contributions on the history of *Indigenismo* see Lauer (1997) and De la Cadena (1996).

32 See Poole (1990).

33 Graña (1899).

34 Villavicencio (1933, p. 63).

35 Villavicencio (1930, p. 40).

36 Encinas (1919).

37 Jiménez de Asúa (1926, p. 39-74), Avendaño (1924, p. 251).

38 This represented a radical change in relation to the 1863 Penal Code, according to which «unawareness of the penal law does not exempt the criminal from [legal] responsibility », a doctrine compatible with the notion that all Peruvians were equal citizens before the law. On this see Hurtado Pozo (1979, p. 77-78).

39 Maúrtua (1937, p. 83-84).

40 Poole (1990, p. 354).

41 See Fuentes and De la Lama (1877, p. 434-436).

42 See, for example, the debate between physicians and lawyers in the case of the multiple murderer Lorenzo Machiavello. *El diario judicial* published most pieces of this debate between May and November 1890.

43 See Valdizán (1918), where the author concluded that the criminal he studied was a « biopathical phrenasthenic » with « high mental insufficiency (imbecile) » and, as such, bore no responsibility for his crimes. Social defense demanded that he be confined in an asylum for insane criminals.

44 See Bambarén's numerous contributions in the *Boletín de Criminología* (1927-1931), the official publication of the « Dirección General de Prisiones » (Bureau of Prisons). See also Bambarén (1930).

45 Solano (1950).

46 Solano (1937).

47 De las Casas (1913).

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