IMAGINING CRIMINALS

CRIMINOLOGICAL DISCOURSES AND THE CONSTRUCTION OF CRIME IN LIMA 1890 - 1934

by

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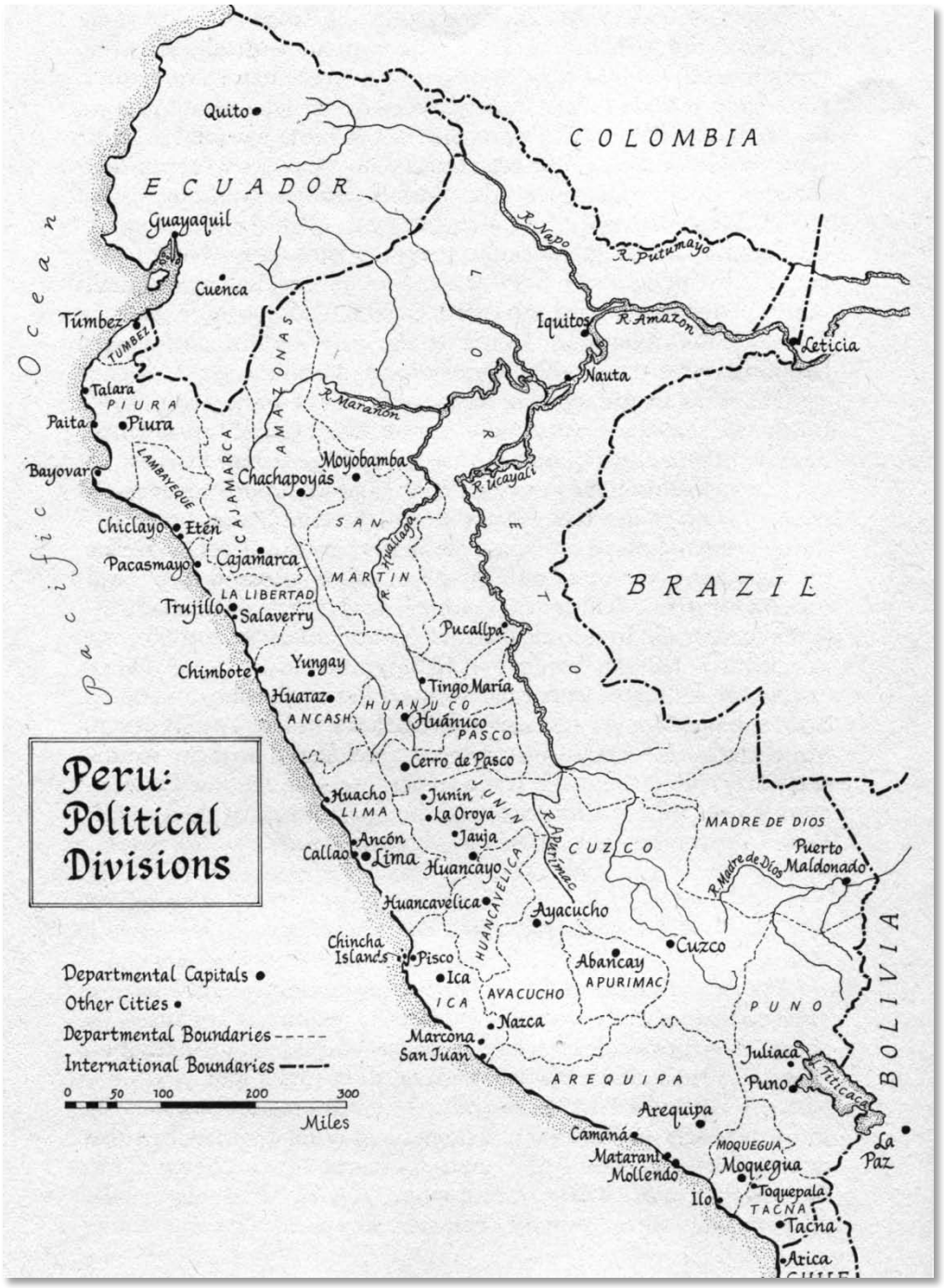
Map of Peru[1]



[1] This map appears in David P. Werlich, *Peru: A Short History*, (Carbondale: Southern Illinois University Press, 1978), 10.

INTRODUCTION

> No one can be convicted, according to our law, without having been broadly characterized, without having been studied in regard to his personal nature, to his social condition, and to the type of crime he committed, which is a symptom of his unsociability and abnormal condition.
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> —Juan Luis Hague, *La caracterización del delincuente. Estudio técnico-jurídico* (1932)

No one could be convicted in 1932 without being deeply characterized and studied, argued Dr. Juan Luis Hague when analyzing the latest Peruvian penal code. The analysis of criminals' personalities, according to him, was one of the most important innovations of the new legislation. Commissioners of the 1924 Penal Code project had turned from a perspective that focused more on crimes to a view that concentrated on criminals. For Hague, this change was an example of the modernization of Peruvian criminal law.[2] Hague was not wrong; the 1863 and 1924 penal codes differed in many ways. More than half of a century separated them. More importantly, commissioners in charge of writing the latest penal code had benefitted from the rise of criminology as a science and from new theoretical debates. The main objective of these debates was to interpret crimes not as simple transgressive acts but as actions committed by individuals against society. Thus, ideas on criminals, more than ideas on crimes, dictated the current legal and academic debate.

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[2] Juan Luis Hague, *Caracterización del delincuente. Estudio técnico-jurídico*, (Lima: El Progreso Editorial, 1932).

But what ideas did intellectuals debate? What criteria did intellectuals use to identify and denounce criminal behavior? What made an individual a dangerous subject in the first place? Also, how did intellectuals who specialized in studying criminality portray themselves? Carlos Aguirre and Deborah Poole are two scholars who have studied the intellectuals' use of theories of control in Peru in the late nineteenth and early twentieth centuries. Both historians' studies are part of the historiography developed during the 1990s about subaltern groups, resistance, and power relationships.

Although Aguirre's studies focus on prison reform, when analyzing the impact of criminology on Lima's intellectuals, he contends that criminologists developed an eclectic perspective in which social explanations of crime became dominant. According to this historian, criminologists disregarded biological determinism when portraying Peruvian racial groups as being capable of improvement through education. He also argues that, unlike the situation in other Latin American countries, positivist criminology in Peru was a highly rhetorical appropriation and that criminological research generally meant nothing more than reading foreign treatises, summarizing them, and peppering them with a few references to local realities.[3]

Anthropologist Deborah Poole focuses not on Lima but on Cusco. She argues that criminology spread during the first decades of the twentieth century, providing local intelligentsia with a discourse whose principles converged with those of *Indigenismo*.[4]

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[3] Carlos Aguirre, *The Criminals of Lima and their Worlds. The Prison Experience, 1850-1935*, (Durham: Duke University Press, 2005), 59. From the same author see also "Delito, Raza y cultura: El Desarrollo de la Criminología en el Perú", *Diálogos en Historia* 2, (2000): 179 – 206 and "Mapping Lima's Morals: The Cultural and Political Construction of the Criminal Classes in Late 19th-Century Peru" paper presented in the Latin American Studies Association Meeting in Chicago, September 24-27, 1998.

[4] *Indigenismo* was an intellectual movement developed in Latin America during the last decades of the nineteenth century. This movement sought to question indigenous peoples' living conditions and, more importantly, their role in the construction of the Latin American nations. Peruvian *Indigenismo* started as a

Poole contends that although intellectuals differed in their ideas on indigenous peoples' moral nature, all agreed that Indians needed separate legislation. Intellectuals, then, considered natives as passive people who needed protection and whose acculturation was a prerequisite for their integration into the nation.[5]

Aguirre's and Pool's research are part of a broader historiography that studies Latin American countries in the context of the spread of liberalism and the development of the republican state. Studies such as Robert Buffington's *Criminales y ciudadanos en el México moderno,* Elisa Speckman's *Crimen y castigo,* and Pablo Piccato's *Crime in Mexico City, 1900 – 1931*,[6] examine theories and policies of control as expressions of Latin American elites' need to limit social mobility and political participation. In general, historians agree that Latin American elites intended to achieve such goals through the criminalization of the lower classes. The elites portrayed the *mestizo* and indigenous populations as degenerate and violent, therefore, incapable of acquiring citizenship. In this sense, criminological theories played an important role as a discourse that allowed elites to accomplish their project of limiting democracy.[7]

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literary and artistic movement that later spread throughout other disciplines and soon became part of the political debate. Among the most important proponents of Peruvian *Indigenismo* are Clorinda Matto de Turner, José Antonio Encinas, Luis E. Valcárcel, and José Carlos Mariátegui.

[5] Deborah Poole, "Ciencia, peligrosidad y represión en la criminología indigenista Peruana," in Carlos Aguirre y Charles Walker (ed.), *Bandoleros, abigeos y montoneros. Criminalidad y violencia en el Perú, siglos XVIII-XX*, (Lima: Instituto de Apoyo Agrario, 1990), 337 – 367.

[6] Robert Buffington, *Criminales y ciudadanos en el México moderno,* (México: Siglo XXI Editores S.A., 2001), Elisa Speckman, *Crimen y castigo. Legislación penal, interpretaciones de la criminalidad y administración de justicia (Ciudad de México, 1872 - 1910),* (Mexico D.F.: Universidad Nacional Autónoma de México, 2002), Pablo Piccato, *Crime in Mexico City, 1900 – 1931*, (Durham: Duke University Press, 2001).

[7] Other publications on this topic are: Ricardo Salvatore and Carlos Aguirre (ed.) *Crime and Punishment in Latin America. Law and Society since Late Colonial Times*, (Durham: Duke University Press, 2001), Juan A. Trujillo and Juan Quintar (ed.) *Pobres, marginados y peligrosos,* Mexico: Universidad de Guadalajara: 2003).

This thesis contributes to the historiographical debate by approaching the topic through the analysis of discourses and rhetorical strategies present in criminological studies. Thus, I focus on criminologists' narratives on crime, on criminals, and on themselves from 1890 to 1934. I agree with the general proposition that criminology became a discursive device for exclusion. Nevertheless, I contend that criminological studies reflected both the preoccupations about transformations that affected Lima and the personal interests of criminologists who wanted to increase their prestige by promoting themselves as specialists on crime prevention. In addition, Peruvian criminologists combined European theories to explain Lima's criminality but, most importantly, they reinterpreted and applied them selectively. Also, criminologists elaborated upon a number of recommendations for crime prevention, which ultimately sought to reinforce class divisions and increase the state's control. Finally, provincial criminologists also developed their own interpretations on crime, race, and modernity. They reinterpreted the role of Indians as redeemable criminal subjects because it reinforced their role as the Indians' redeemers.

This essay is not an analysis on popular concepts or beliefs concerning criminality, criminals, or criminal behavior. Nor is this a study of how intellectuals' ideas impacted the common population or were applied in practice. Those topics will be the object of future and broader research. The objective of this paper is to reconstruct the intellectuals' discourses and some of the interests behind them. To accomplish this objective, I have analyzed theses written by students of San Marcos University in Lima, books and articles, reports, proposals of penal codes, and the penal codes themselves. I have also considered lectures of classes dictated at San Marcos University, such as Carlos Bambarén's *Cátedra de criminología de la Universidad de Lima*. When examining these sources, I have focused

on the rhetorical strategies intellectuals used and the concepts they developed. Also, when possible, I have compared different texts written by the same author to check the consistency of the author's ideas and to identify changes in his discourse over time.

In addition, I use concepts borrowed from sociology and cultural studies, such as "moral panics" and "moral entrepreneurs," coined by Stanley Cohen and Howard Becker, respectively, in the 1960s. I consider that, in certain ways, early criminologists were manufacturers of moral panics or disproportionate social responses to the perception that the moral condition of society was deteriorating at a calamitous pace.[8] Cohen also interprets moral panics as a device used to distract public attention from underlying social problems and justify increased social control over the working class and other segments of society.[9] Although Cohen focuses on the media as the main means for the massive spread of moral panics, I argue that the intellectuals' texts functioned, though to a lesser extent, as a means to spread moral panics to a restricted and selected audience.

Furthermore, intellectuals constructed themselves as advocates of social order or moral entrepreneurs. Becker interpreted moral entrepreneurs as individuals or groups who take on the responsibility of persuading society to develop or to enforce rules that are consistent with their own moral beliefs.[10] Moral entrepreneurs may act as rule creators by crusading for the passage of laws and policies or as rule enforcers by administering and

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[8] Allan G. Johnson, *The Blackwell Dictionary of Sociology. A User's Guide to Sociological Language*, (Oxford: Blackwell Publishers, 1995), 184. Also, Stanley Cohen, *Folk Devils and Moral Panics: The Creation of the Mods and Rockers*, (New York: Routledge, 2002) and Cornel Sandvoss, "Moral Panic," in *The Cambridge Dictionary of Sociology*, ed. Bryan S. Turner, (Cambridge: Cambridge University Press, 2006), 400-401.

[9] Ibid.

[10] Mary de Young, "Moral Entrepreneur," in *The Blackwell Encyclopedia of Sociology*, ed. George Ritzer, (Malden: Blackwell Publishers, 2007), Vol. 6, 3086- 3088. Also, Howard Becker, *Outsiders: Studies in the Sociology of Deviance*, (London: Free Press of Glencoe, 1963), 147-163.

implementing them.[11] Again, for a restricted audience, Peruvian intellectuals gave themselves a leading role in the moralization of Lima's society. Nevertheless, the self-assignation of such a difficult mission was a successful attempt to portray themselves as necessary scientists who knew the antidotes for the "poisons" that threatened the city.

I have divided this thesis into four chapters. Chapter One examines the context in which positivist theories of control developed in Europe and the conditions in which those theories spread in Peru. Chapter Two centers on the way criminologists constructed Lima's criminal subjects. I consider criminological studies as a play in which the city, the criminals, and criminologists themselves were well-delimited characters that performed important roles in the creation of moral panics. Chapter Three focuses on the proposals that intellectuals elaborated to provide possible solutions to Lima's criminality. Chapter Four is an analysis of the narratives that the provincial intelligentsia used to develop their ideas on race and modernity.

[11] Ibid.

I THE SCENARIO

> Opportunity does not make the thief, it reveals him... Opportunity does not work by itself; it rather works on an internal disposition of the subject caused either by inheritance or education, or by a combination of both. In any case, it works on a disposition caused by the direct or indirect action of the social environment in which the ancestors of the individual, like himself, lived.
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> —César Lombroso, *Los criminales* (n.d.)

A series of political, economic, and social transformations made possible the development and spread of theories of control in the Western world towards the end of the eighteenth century. In Europe, colonialism and the development of a bourgeois ideal of order shaped discourses aimed against external—foreign—threats or resistance and internal disorder. In Latin America, the consolidation of the republican state towards the end of the nineteenth century and the presence of a highly heterogeneous population shaped a discourse that fostered homogenization as a primary condition for social control.

In Peru, the consolidation of centralism and the rise of a capitalist and modernizing oligarchy reinforced exclusion as a means to limit political participation. The transformation of Lima in demographic and urban terms helped to increase the size of the middle and lower classes as well as to create new spaces of socialization. This context made possible the adoption and reinterpretation of new theories of social control and stimulated the growth of a professional class specialized in the topic. Later, repressive

regimes would reinforce the role of these professionals, linking them to governmental institutions and projects.

Theories of Control: European Schools and the Rise of Criminology

The industrial revolution, the consolidation of the liberal state, and colonialism played important roles in the development of discourses on social control in nineteenth-century Europe. First, the industrial revolution made possible new social dynamics that demanded new policies which prioritized the protection of private property and the creation of an obedient and efficient working class.[12] Second, the development of the liberal state in Europe demanded the homogenization of the population and the spread of nationalism for two reasons: to improve governmental administration and to develop an identification between the people and the ruling system.[13] During the late nineteenth century, great mass migrations, imperialism, and growing international rivalries helped to increase nationalism as well as xenophobia on this continent.[14] This process was also related to European colonialist policies which intellectuals justified by developing theories on the superiority of races.

Criminology, as a science, arose in Italy and France in this context. Criminology appeared in the late nineteenth century as a critique against enlightened theories which

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[12] Massimo Pavarini, *Control y dominación. Teorías criminológicas burguesas y proyecto hegemónico*, (Buenos Aires: Siglo Veintiuno Editores, 2002). Pavarini approaches the topic from a Marxist perspective. He argues that the development of capitalism demanded the reeducation of the non-proprietary classes for them to accept their own non-proprietary condition as natural. This process involved the transformation of peasants and artisans into a working class that understood the logic of wage labor. Also, Michel Foucault, *Discipline and Punish: the Birth of the Prison*, (New York: Pantheon Books, 1977) for the evolution of punishment and the development of the modern state.

[13] Eric Hobsbawm, *Nations and Nationalism since 1790: Programme, Myth, Reality*, (Cambridge; New York: Cambridge University Press, 1992), 80-100.

[14] Ibid., 91.

interpreted crimes as acts derived from individuals' free-will. According to this theoretical trend, later named the "Classical School," if an individual committed a crime it was a matter of individual choice. This perspective focused on the protection of peoples' rights against an abusive absolutist state. It opposed capital punishment and torture and advocated equality before the law.

Positivist criminologists considered the Classical School's free-will based theory too abstract. According to positivists, free-will did not exist and, following evolutionist theories, criminals had hereditary tendencies towards crime which could be triggered by different factors. Positivists' ideas directly denied the principles of liberalism by establishing that universal freedom and equality remained elusive in practice. They believed that natural laws determined crime and that criminal behavior was identifiable through the study of the criminal. These ideas influenced not only European intellectuals but also Latin American scholars. Indeed, Peruvian criminologists considered these theories fundamental for understanding criminality as a phenomenon.

The fact that modern criminology in the late nineteenth century finally crystallized in a recently unified Italy is relevant in order for one to comprehend the political discourse behind science. In that period, Italy was a country divided into a northern region which headed towards industrialization and a southern region which remained agrarian. During this period, changes in electoral laws ended up concentrating political power in the north.[15] Also, failed colonialist policies and the spread of riots in the south caused criticism against the liberal-parliamentary system. As a consequence, nationalist groups used these critiques

[15] Prime Minister Zanardelli's bill gave the right to vote to literate males over twenty-one who paid at least nineteen lire a year in taxes. See Spencer M. Di Scalla, *Italy from Revolution to Republic: 1700 to the Present*, (Colorado: Westview Press, 1998), 132.

to foster an ideology that sought the rise of a more authoritarian state.[16] That the "fathers" of criminology, Césare Lombroso and Enrico Ferri, sympathized with fascism is not surprising, considering this context.

Physician Césare Lombroso started the Italian School of Criminology in the 1870s. His phrenological research about notorious brigands' skulls led him to conclude that bandits' skulls had a number of anomalies also present in apes' skulls. Lombroso, then, elaborated a theory which established that criminals were a non-evolved type of human being. He contended that since criminals were related to primitive man, their actions were primitive as well. He named the criminals' set of physical and psychological characteristics "atavistic signs" and stressed that atavism was inheritable. Furthermore, he created a criminal taxonomy in which the most dangerous type was the born-criminal, a subject with distinct physical features and an irrepressible need to commit crimes. Lombroso's followers, Enrico Ferri and Rafaele Garófalo, incorporated sociological and legal perspectives to Lombroso's theory, coining the term *criminology* for the first time. Ferri's influence and the open criticism of French scholars made Lombroso include social and environmental factors as causes of criminality.[17]

The Italian School's contribution is broader than just Lombroso's atavistic theory and his idea of the existence of the born-criminal type.[18] First, it developed the principle of

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[16] Martin Blinkhorn, *Fascism and the Right in Europe, 1919 – 1945*, (Essex: Pearson Education Limited, 2000), 8-16.

[17] Nodier Agudelo Betancur, *Grandes corrientes del derecho Penal*, (Bogota: Editorial Linotipia Bolívar, 1991); Jaap van Ginneken, *Crowds, Psychology, and Politics: 1871 – 1899*, (New York: Cambridge University Press, 1992).

[18] Ferri provided a final classification of five types of criminals: (1) the born criminal, (2) the insane criminal, (3) the habitual criminal, (4) the occasional criminal, (5) and the passionate criminal. Also, he argued that the born criminal was a victim of criminal neurosis, which "is not in itself sufficient to make one a criminal… A man may be a born criminal, that is to say, he may have some congenital degeneration which predisposes him toward crime, and yet he may die at the age of 80 without having committed any crime, because he was

social defense as criminology's main mission. Second, it fostered the idea that society should focus more on preventing crime than punishing it. Third, it developed substitutes for punishment for a more efficient administration of justice. Fourth, and most importantly, it developed and introduced into the legal debate the concept of social dangerousness as the propensity of a person towards crime. Thus, under the principle of social defense, the state could identify dangerous individuals and separate them from society even before they committed a crime. This idea was one of the most sophisticated proposals of the Italian School.[19]

French critics of the Italian School did not entirely disapprove of the Italians' ideas but focused on attacking Lombroso's born-criminal category. In this sense, one assumption some historians make is that French and Italian theories totally differed. This assumption is the result of considering the open criticism of the French against Lombroso as well-delimited differences in their academic discourses. Actually, as Piers Beirne and Martin S. Staum argue, Italian and French criminologists did not totally disregard either environment or biology as explanations for deviance.[20] Gabriel de Tarde, the most outspoken opponent against biologic determinism in criminology, maintained that social factors determined criminality. From Tarde's sociological perspective, actors are never born into criminality, but "socialized" into it. Tarde, nevertheless, thought that some people could have innate

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fortunate enough to live in an environment which did not offer him any temptation to commit crime." Enrico Ferri, *The Positive School of Criminology: Three lectures by Enrico Ferri,* (Pittsburgh: University of Pittsburgh Press, 1968), 91-93.

[19] Nodier Agudelo Betancur, 16-17 and 107; Enrico Ferri, *Principii di Diritto Driminale: Delinquente e Delitto nella Scienza, Legislazione, Giurisprudenza in ordine al Codice Penale vigente—Progetto 1921-Progetto 1927,* (Turin: Unione Tipografico Editrice Torinese, 1928).

[20] Piers Beirne, *Inventing Criminology: Essays on the Rise of 'Homo Criminalis,'* (Albany: State University of New York Press. 1993) and Martin S. Staum, *Labeling People: French Scholars on Society, Race, and Empire, 1815-1848,* (Montreal: McGill-Queen's University Press, 2003).

tendencies towards deviant behavior that predisposed them to crime.[21] Alexander Lacassagne, another important critic of Lombroso's categories, believed that environment was a trigger for antisocial behavior. Thus, from Lacassagne's anthropological perspective, environmental factors, such as climate, determined criminality.

Despite both authors' disapproval of biological determinism, they only rarely drew the rigid distinctions between biological and sociological categories that we nowadays do.[22] The fact that these intellectuals opposed Lombroso's born-criminal does not mean that they had more liberal or less racist perspectives. Most importantly, neither Tarde nor Lacassagne fostered social equality as we understand it today. On the one hand, Tarde developed the theory of imitation which contended that people committed crime due to a tendency to imitate certain behavior. Imitation followed certain rules, though. Tarde considered that crime had its source in the metropolis, in the nobility, and in the rich, and then it spread among common people who tended to imitate "their superiors."[23] For example, he claimed that drunkenness, arson, and political assassination were crimes that originated with the feudal nobilities and were transmitted to the masses through imitation.[24] Furthermore, Tarde, as Lombroso and Ferri, embraced well-known theories that portrayed crowds as inferior organisms that acted irrationally. For example, he described the crowd as an "impulsive and maniacal beast."[25]

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[21] "Perhaps one is born vicious, but it is quite certain that one becomes a criminal." Beirne, 160; Gabriel Tarde, *Penal Philosophy*, (New Brunswick: Transaction Publishers, 2001), 256.

[22] Beirne, 154.

[23] Ibid., 159-160.

[24] Ibid.

[25] Quoted by Beirne, 162-163.

On the other hand, Lacassagne's theories on environmental influence stated that the modification of the social environment could lessen criminality. Nevertheless, his concept of the social corresponded to the hygienic influences of climate and diet and their effects in turn on the brain and body.[26] Lacassagne paid more attention to climate and temperature than to injustice and violence as explanations for crime. Furthermore, he praised phrenology and believed in the hereditary transmission of vices.[27] In conclusion, Tarde's and Lacassage's ideas were hierarchical and exclusive. More importantly, they reflected France's political and social context, specifically, the development of French colonialism and the convulsed beginning of the Third Republic. Tarde, for example, described the 1871 and 1872 riots as proletarian, anarchic, irrational, and feminine.[28]

Peru: Modernization, Centralism, and Control

By the time Lombroso, Ferri, Tarde, and Lacassage became part of Peruvian intellectuals' conversations, the country had just gone through the most violent event of its independent life, the War of the Pacific (1879-1883). Battles between *caudillos*[29] after this conflict had also led to a civil war that ended up with the triumph of the *caudillo* Nicolas de Piérola in 1895. Following these events, the country began a period of modernization led by a Peruvian oligarchy whose source of wealth was landownership, mining, commerce and

[26] Staum, 167.

[27] Ibid., 168.

[28] Quoted by Beirne, 163.

[29] *Caudillos* were military or civil leaders who appeared in Latin America after the independence process. According to John Lynch, they had three basic qualifications: an economic base, a social constituency, and a political project. The caudillo emerged as a "local hero, the strong man of his region, whose authority derived from ownership of land, access to men and resources, and achievements that impressed for their value…." John Lynch, *Caudillos in Spanish America*, (New York: Oxford University Press, 1992), 3-5.

banking.[30] During this period, the economy, based mainly on the production and exportation of sugar and cotton, grew steadily. Large modern haciendas expanded in the northern coastal area, while smaller estates characterized the highlands. The jungle also became, although momentarily, an important region for the economy, thanks to the intensive extraction of rubber. In addition, American capital managed to displace British capital through great investments in the production of some exportable raw materials, such as copper, vanadium, and oil. Furthermore, the main cities of the country started a process of industrialization based on the production of textiles.

In this period, political and administrative centralism consolidated. From the 1850s, the fragile, but impressive wealth produced by the exploitation of guano[31] made Lima, the capital, gain economical independence from the provinces. As a consequence, the state developed a deeply centralized fiscal structure which strengthened an already developed administrative centralism. This process helped to transform provincial leadership—especially *gamonales*[32]—into Lima's political clientele. Towards the end of the century and despite some timid decentralist attempts, political centralism continued and finally was consolidated through the electoral reform of 1896. This reform limited the right to vote to

[30] Well-known historian Jorge Basadre named this period "Aristocratic Republic" to stress the contradictions of a regime in which the state fostered republican principles, while democracy contracted in practice. Jorge Basadre, *Historia de la República del Perú*, (Lima: El Comercio, 2005), Vol. 12 and 13. Latter historians have stressed that this period was more complex than what Basadre considered. Apparently, during this period, elites fostered bourgeois rather than aristocratic ideals, developing a capitalistic economy. Carlos Contreras and Marcos Cueto, *Historia del Perú Contemporáneo*, (Lima: PUCP, Universidad del Pacífico, IEP, 2004).

[31] Guano is the dried excrement of seabirds, a powerful natural fertilizer rich in nitrogen and phosphorus. The Peruvian state owned large deposits of guano—a number of islands in the Pacific—which exploited intensively between 1845 and 1880, transforming Peru's economy. Paul, Gootenberg, *Imagining Development: Economic Ideas in Peru's "Fictitious Prosperity" of Guano, 1840-1880*, (Berkeley: University of California Press, 1993), 1-2.

[32] The term *gamonal* is a Peruvianism that refers to a provincial boss whose power rested primarily on the control of land, mercantile monopoly, as well as on the access to servile labor and military bands. Brooke Larson, *Trials on Nation Making: Liberalism, Race, and Ethnicity in the Andes, 1810-1910*, (New York: Cambridge University Press, 2004), 164, 173-174.

literate males over twenty-one years old. As most of the literate population lived on the coast, the main cities of this area—especially Lima,—ultimately had the power of choosing national authorities.[33] Political centralism and the alliance between foreign capital, the coastal oligarchy, and the provincial *gamonales* made possible the political preponderance of the Partido Civil, the political party of the oligarchy.

The Partido Civil had a strong presence at San Marcos University which was the place where the sons of the national elite were educated.[34] As historian Marcos Cueto contends, to be part of the Partido Civil's board meant to receive privileges such as becoming a professor at this university.[35] Thus, San Marcos' professors combined their academic responsibilities with their political activities as deputies and senators. In this context, a first generation of students who had experienced war led intellectual debates which focused mainly on topics such as Peru's defeat by Chile. This generation tried to develop proposals to strength the country's paths towards progress. In addition, although from a conservative and paternalistic perspective, some intellectuals demanded more inclusive social policies. As positivism dominated the academic debate, intellectuals included scientific language to make their proposals appear sounder.

The first Peruvian criminologists were part of this generation. Although the first class on criminology opened in 1919, San Marcos' law and medical students had already been debating criminological theories almost three decades earlier. For example, Javier Prado Ugarteche's thesis, *El método positivo en el derecho penal*, discussed positivist

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[33] Carlos Contreras, *Centralismo y descentralismo en la historia del Perú independiente*, (Lima JCAS – IEP, 2000).

[34] San Marcos University did not allow women as students until 1908.

[35] Marcos Cueto, *La reforma universitaria de 1919: Universidad y estudiantes a comienzos de siglo*, Thesis, (Lima: PUCP, 1982), 48.

criminological theories as early as 1890. He contended that the focus of criminal science should shift from the crime to the criminal, arguing also that heredity shaped the physical and moral constitution of the subject.[36] Other early followers of the positivist theories were Mariano Ignacio Prado, Plácido Jimenez, and Oscar Miró Quesada—who would become the first professor of criminology at San Marcos University.[37] Outside the classrooms, lawyer Paulino Fuentes Castro and physician Abraham Rodriguez also embraced and fostered criminological theories.[38]

From the 1910s, the University's student body started to change: the number of attendees from the provinces surpassed or doubled those from Lima. This transformation involved the development of a more critical generation of students and the challenge to the power held by the Partido Civil at the university.[39] This generation of students supported Augusto B. Leguía, a new candidate to the presidency, and proclaimed him "*maestro de la juventud*" in 1918. Leguía became president through a coup d'état in 1919 which ended the Partido Civil's regime. Leguía's eleven-year administration—the *Oncenio*—was characterized by the use of populist rhetoric, an unprecedented presence of foreign investments, and the incorporation of new actors into the political scenario.[40] These new actors were mainly from the urban middle classes, some sectors of the provincial elites, and

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[36] Carlos Aguirre, *The Criminals of Lima and Their Worlds: The Prison Experience, 1850-1935*, (Durham: Duke University Press, 2005), 43.

[37] Poole, 362.

[38] The first one published articles in *El diario judicial*, a journal he directed. The latter conducted a typically Lombrosian project by measuring convicts bodies to identify features of the Peruvian born criminal. Aguirre, 43.

[39] The main consequence of this transformation was the university reform of 1919 in which the new generation of students demanded the renovation of the faculty and the increase of the student's representation on the University's board.

[40] Aguirre, 5.

portions of the working classes.[41] Leguía's personalistic regime soon turned into a dictatorship which sought modernization of repressive institutions such as the army and the police.[42]

By the time Leguía became president, positivist criminology had already established itself as the hegemonic discourse on crime in Peru.[43] Criminologists, as specialists on order, had gained academic status which later increased through their relationship with Leguía's regime. Some of the criminology students of the first generation, now important jurists, became part of Leguía's administration through the implementation of prison reform during the 1920s.[44] The success of these criminologists resulted from the exclusive and repressive political demands of the Aristocratic Republic and the regime of Leguía. Most importantly, their success resulted from the way criminologists approached a series of socio-urban transformations in their studies.

The Metamorphosis of the City of the Kings

Indeed, Lima had gone through important transformations. By the end of the nineteenth century, the capital was no longer the colonial "City of the Kings" and had become a modern metropolis. Its population had almost doubled from 120,994 dwellers in 1878 to 223,807 in 1920.[45] This increase was the result of the arrival of *provincianos* (migrants from the provinces) and foreigners as well as the natural growth of Lima's

[41] Ibid.

[42] Ibid.

[43] Ibid., 59.

[44] Ibid., 97.

[45] Fanny Muñoz, *Diversiones públicas en Lima, 1890-1920: La experiencia de la modernidad,* (Lima: Red para el Desarrollo de las Ciencias Sociales en el Perú, 2001), 47.

population.[46] More importantly, the demographic increase was also related to a number of transformations in the infrastructure of the city whose colonial walls had been demolished in 1870 to develop new urban areas.[47]

In general, the modernization of Lima not only involved its physical growth but also the installation of services such as running water, sewage, and electrical power during the early 1900s. Also, from 1890 to 1920 Lima's dwellers enjoyed the opening of around seventeen movie theaters and eleven theaters. They had access to modern public transportation (tramways), recently built public squares and parks, cafes, and a number of brothels, gambling houses, and opium dens.[48] Despite this transformation, colonial Lima survived through the *solares* (seigniorial households) and the *callejones* (tenement apartments) located mainly in the downtown district of the city. These buildings were spaces where upper, middle, and lower classes coexisted until the 1920s. From these spaces, the elite's *solares* were the most suitable for housing purposes. In contrast, tenement houses or *callejones* were usually over-populated by members of the lower and middle classes and offered fewer services.[49]

Furthermore, the expansion of the middle class accompanied the modernization of the city, transforming its socio-economic structure.[50] The number of lawyers, engineers, teachers, and, especially, employees grew steadily. Also, the spread of factories from 69 in 1890 to 244 in 1920 caused the increase in the number of workers, who organized

[46] National migrants came mainly from the coastal area. Also, Lima's foreign population was mainly Chinese, Japanese, and Italian.

[47] Alicia del Águila, *Callejones y mansiones: Espacios de opinión pública y redes sociales y políticas en la Lima del 900*, (Lima: PUCP, 1997), 30-31.

[48] Muñoz, chapters II and III.

[49] Muñoz, 56.

[50] Muñoz, 48-50.

following anarchist and socialist ideologies.[51] Indeed, Lima's factory workers had an important role in the demonstrations, generated by the rise of prices, that occurred towards the end of the 1910s. They also fostered the development of labor laws that would regulate their work in the factories and establish labor benefits.[52]

[51] Aguirre, 7.

[52] One major achievement of Lima's labor movement was the establishment of the eight hours as the daily working time. Denis Sulmont, *El movimiento obrero peruano, 1890-1980: Reseña histórica*, (Lima: Tarea, 1980).

II THE CHARACTERS

> I feel my strength weakened and my spirit ill. When a young man stares at a picture of moral misery, when he contemplates the depth of the abyss a country is rushing into, it is impossible not to be filled with bitterness. Amid all else, I experience certain personal satisfaction… I have paid my tribute to the work of social regeneration.
>
> —Plácido Jiménez, *La sociedad y el delito* (1895)

Early criminology studies are complex artifacts. They not only provide information on a topic but also picture the time in which they were written and the person who wrote them. For this reason, I disagree with the opinion that these early studies were just highly rhetorical appropriations that did not produce original interpretations about the local realities of crime.[53] Although, especially at the beginning, they did not necessarily provide their audience with highly developed research, they did produce interesting interpretations on local criminality. These interpretations reflected academic curiosity, moral sensibility, and personal interests. More importantly, they were the result of a historical context marked by two processes.

The first of these was the transformation of Lima produced by high levels of migration, the rise of new middle and lower classes, and the development of new forms of political organization. The second was the professionalization process developed during the nineteenth century, which made possible the rise of a specialized professional class and created a means to enhance social status. These two processes influenced the

[53] Aguirre, 59.

criminologists' interpretations of crime, which ultimately functioned as a platform for the spread of moral panics. Certainly, these studies stressed the existence of a series of menaces against the progress and safety of the city and its dwellers. Sometimes these menaces referred to potential dangers, and other times, they took the shape of a crisis unchained by the constant increase of Lima's criminality. As Cohen argues, although moral panics tend to focus on particular events or subjects—a riot or a gang, for example—they are actually responses to broader issues that create tensions in a community.[54]

Criminologists' construction of potential dangers or a criminal crisis reflects the concerns generated by the growth of the city and, especially, the increasing access to spaces and services that the upper classes considered traditionally closed or exclusive. Likewise, the "existence" of a criminal crisis made logical the need of a moral crusade which ultimately helped to legitimize criminologists as professionals and criminology as a science of control. If Lima was "rushing" into an "abyss" of degeneration, then crime prevention was not useful but fundamental. As a consequence, criminologists became the only professionals qualified to prevent crime, a proposition that they clearly stated in their studies. In addition, self-promotion as indispensable control agents makes more sense when we consider that criminologists' studies were aimed at a reduced and selected audience. University authorities and professors—deeply linked to the ruling party—as well as heads of governmental institutions, were the ones to ultimately evaluate the criminologists' research.

Criminologists' ideas and proposals, then, resulted from a convergence of fears, needs, and interests. Their discourses resemble a play in which they developed two types of characters: the enemies of order and social safety, the criminals, and the defenders of

[54] Cohen, 161-172.

society, the criminologists. The development of both roles was eased by positivists' idea that society had the right to defend itself from criminals' attacks. The effective way to achieve society's protection, nevertheless, was not through brutish repression but through scientific prevention. As this type of prevention demanded the participation of individuals with high levels of education, social defense became a mission for criminologists.

Sin City: Lima in Crisis

The first character developed in criminologists' studies was the city. Through the pen of some intellectuals, Lima became a city threatened by chaos and lust. These two threats flourished in particular spaces such as *callejones*, popular bars or *pulperías*, gambling houses, brothels, and hovels. Criminologists, echoing hygienist theories, described these places as spaces where dangerous characters and crime spread in the same way that diseases did. Criminologists represented tenement houses as a serious menace against public health and social security because they were usually overcrowded. For example, Victor Villavicencio, in his study on criminal sociology, argued that the *callejón* was "the best school of vice and crime. [There] close to the honest people live vicious individuals, exploiters of women, all sorts of rogues… Let us examine any recidivist criminal, any habitual delinquent, and we will conclude that his vices and criminal ideas originated in the *callejón*."[55]

Criminologists thought that Lima's overpopulation caused the overcrowding of houses, especially among the poor. Augusto Peñaloza, in his study on eugenics, argued that this problem had "frightening transcendence." He contended that, according to statistical

[55] Victor Villavicencio, *Algunos aspectos de nuestra sociología criminal*, (Lima: n.p., 1930), 40.

data, seventy seven per cent of Lima's dwellers were poorly housed.[56] Poor housing generated social degeneration and, sometimes even worse problems. According to Professor Oscar Miró Quesada, it could also produce peoples' biophysical degeneration.[57] In general, intellectuals considered alleyways dangerous because they prevented the development of a healthy working class. Therefore, criminologists portrayed these spaces as places that lacked righteousness, morality, and religiosity,[58] three elements intellectuals believed important for the development of virtuous workers.

Criminologists also denounced gambling houses as dangerous places. According to them, the city's proclivity to game was evident in the numerous gambling houses spread among upper and lower class neighborhoods. Even public spaces such as squares and markets had been transformed into gambling areas where people freely spent time and money. Among the different places criminologists considered the lowest gambling areas Lima's Chinatown was depicted as the kingdom of deviance. For example, Plácido Jiménez, in his thesis on causes of crime, complained that Chinatown attractions trapped men, women, and children.

Jiménez argued that these individuals suffered a metamorphosis by descending to their lowest passions, generated by game. Thus, he described Chinatowns' gamblers as "repulsive individuals who had disfigured faces due to syphilis and the high consumption of alcohol."[59] Moreover, Jiménez argued that Lima was not only obsessed with gambling,

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[56] Augusto Peñaloza, *Prevención eugénica de la criminalidad en el Perú,* (Lima: La Voce D' Italia, 1916), 117.

[57] Aguirre, 50.

[58] Peñaloza, 118.

[59] Plácido Jiménez, "La sociedad y el delito," Ph.D. diss. University of San Marcos, in *Anales de la Universidad Mayor de San Marcos de Lima* 25 (1898): 302.

but it was also poor because of its addiction. He calculated—not rigorously—that the city lost more than 1.6 millions of souls per year in this activity.[60] According to him, Lima was ruined and the forty eight pawn houses spread out within the city were the best evidence of this situation.[61]

Chaos seemed to chase the city even in places designed for surveillance. Indeed, criminologists considered Lima's jails as spaces that were highly hazardous. According to these scientists, although law enforced mandatory work, inmates hardly performed any activity in jailhouses and penitentiaries. Intellectuals argued that imprisoned men spent their days immersed in idleness. Also, another serious problem derived from life in prison was that prosecuted and non-prosecuted men shared the same areas. This situation made possible the exposure of innocent individuals to the influences of crime through mistreatment or adoption of habits from proven criminals. Jiménez claimed that Peru's correctional houses should be named "corruptional" houses instead because of this situation.[62] In the same way, Peñaloza argued that Peruvian jails were places where degeneration proliferated because their poor sanitary conditions fostered promiscuity and the spread of tuberculosis.[63]

Although jails were a constant cause of preoccupation among criminologists and authorities, new urban threats progressively appeared. Towards the 1930s, hostels became places of degeneration in the criminological literature. For instance, Hague, in his *"Estudios policiales,"* argued that cheap hotels had started to spread, especially along the

[60] Ibid., 303.

[61] Ibid.

[62] Jiménez, 338.

[63] Peñaloza, 62.

main streets of Lima. There, vicious men—*corruptores de profesión*—used the rooms rented by the hour to corrupt girls.[64] Hague also contended that drug abusers tended to use these spaces to satisfy their addictions.

Lima's condition as portrayed by criminologists was also symptomatic of something more complex. When criminologists did not address the city directly to denounce social threats, they tended to denounce a broader, less clear, generalized criminal crisis. This crisis did not necessarily have its epicenter in Peru, but it menaced the country with its "unstoppable" growth. For instance, in 1890, student Javier Prado y Ugarteche argued that the moral crisis that had spread within Europe would reach the country if intellectuals did not fight against social diseases.[65] Five years later, Jiménez contended that crime developed at an alarming rhythm which expressed itself in the "crime waves" that "swamped many countries."[66] Also, in a more poetic prose, Peñaloza contended in 1916 that crime "condensed like a cloud" in the Peruvian social atmosphere. In fact, even some provincial intellectuals shared these claims (see chapter 4).

Criminologists used European cities' criminality as examples of the criminal crisis that threatened their country. They tended to compare Peru with France, Spain, Italy, and, with less intensity, other Latin American countries such as Argentina and Chile. By comparing Peru to European countries, Peruvian intellectuals not only echoed European theories and complaints, but they also tried to link Peru to their modernity. The objective of this discourse was to stress Lima's development and, in general, to highlight Peru's

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[64] Hague, *"Estudios Policiales": Técnicas científicas aplicadas a la policiología y consideraciones sobre el mejoramiento de la institución policial en el Perú*, (Lima: Impr. De la Escuela de la Guardia Civil, 1934), 46

[65] Javier Prado y Ugarteche, *El método positivo en el derecho penal*, (Lima: Universidad Ricardo Palma, [1890] 2003), 7-8.

[66] Jiménez, 184.

progress. Hague, for example, noted that it was "indubitable" that Peru itself and its capital were "cores of high civilization;" therefore, Peru's criminality shared "similarities with analogous communities of the universe."[67]

Still, this discourse was not exclusive to Peruvian intellectuals. For example, Cuban ethnologist Fernando Ortiz expressed the same ideas in his famous *Hampa Afro-Cubana* (1902), in which he analyzed the particularities of Cuba's criminal class while locating Cuban criminality as part of a broader phenomenon. In this study, Ortiz argued that "all big civilized cities are alike in both evil and honest life."[68] In fact, when he compared Cuba with Brazil or Haiti, it was only to stress Cuba's better social conditions. In short, the "sin" city in criminologists' discourse was the darkest face of the modern city, not its antithesis.

Criminologists' claims did address actual issues that the social dynamics of the city and the negligence of the state created. Lima's prisons, for example, had permanent problems of overcrowding. Even worse, in some penal institutions, like El Frontón, jailers forced inmates to work in inhuman conditions.[69] Nevertheless, Lima was not going through a criminal crisis. As Aguirre argues, during this period, Lima's pattern of arrest was remarkably consistent. Its arrest ratio per number of inhabitants remained stable at around 1 percent from 1890 to 1920s.[70] Thus, the criminologists' crisis claims had no real basis. Even so, the picturing of Lima as a city continuously menaced by crime had another

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[67] Hague, *"Estudios policiales,"* 43-45.

[68] Fernando Ortíz, *Hampa Afro-Cubana. Los negros brujos*, (Madrid: Editorial América, 1917), 19. In a similar fashion Hague argued in 1934 that being both Peru and its capital "superior civilization cores", criminality offered "general similarities with other analogous communities of the universe." Hague, 44.

[69] Aguirre, 104-109.

[70] Ibid., 80.

important function. It allowed intellectuals to count on a setting for the construction and performance of other important characters.

The Criminals

First of all, I should point out two things about the way intellectuals portrayed criminals. First, there was a general agreement with the idea that criminals were abnormal or inferior beings. Most Peruvian criminologists agreed with positivist critiques against the Classical School's free-will based theory. As a consequence, they constructed criminal subjects, maintaining the idea that not all people are equal. Second, they tended to indentify lower classes in the city and indigenous peoples in the highlands with criminal classes. Nevertheless, criminologists used theories selectively, depending on the type of criminal subject they constructed or analyzed.

a) Tramps, Drunkards, and Gamblers

According to criminologists, potential criminals spread mainly in lower class neighborhoods. These neighborhoods also counted on three characters, that although they were not necessarily criminals, represented a constant danger: tramps, drunkards, and gamblers. Because exclusivity of identity does not exist, these three categories—or characters—could be independently applied to a single person. According to the criminologists, these characters' dangerousness resided in their idleness and on their capacity of frequenting places, such as brothels and taverns, where degeneration

proliferated. They made socialization of crime possible by having perverts as their friends and ultimately committing crimes against property to support themselves.[71]

Jiménez, for example, argued that artisans or workers who surrendered to gambling went through a peculiar transformation. First, they spent the night at the "den of vice" or gambling house which sapped their strength. Then, these men stopped working and providing for their families, forcing family members into prostitution or begging. Later, workers already "transformed" into gamblers, whose brains were "weakened" because of their consumption of alcohol, became criminals. According to Jiménez, in the last stage of degeneration due to gambling, these men were even capable of killing to get the means to satisfy their passion.[72]

In contrast, Peñaloza's different and less dramatic perspective on this issue had alcohol consumption as its initial stage. For him, alcoholism represented the main problem for the working class. He argued that bars were the only option workers had to forget about the difficulties of daily life. Since sick children and demanding women waited for them back home, men preferred to go to these places. There, as workers lacked the "culture" to repress their "tendencies," they ended up surrendering to drunkenness.[73] In essence, Jiménez and Peñaloza used the drunkard-tramp-gambler formula as an illustration of what a worker became if he did not invest his time properly.

[71] Jiménez, 261.

[72] Ibid., 262

[73] Peñaloza, 139.

b) The Color of Crime

Criminologists' deepest concerns, however, were not related directly to workers' activities but to the "problem" of race. Peru's ethnic and cultural diversity represented a serious challenge to intellectuals' ideal society of order and progress. In general, they tended to criminalize the population whom they considered did not have white-creole racial and cultural features. To accomplish this aim, scientists applied the theories available at the time. In this sense, Carlos Aguirre claims that Peruvian criminologists rejected the most radical versions of biological determinism in favor of a "social" interpretation of crime.[74] He argues that this interpretation emphasized elements closely related to the "moral" features of the lower and colored groups. As a result, criminologists' interpretation on deviance reinforced the traditional view of crime as a moral phenomenon associated with certain racial, social, and occupational groups.[75]

Aguirre adds that the rejection of biological determinism was progressive. Initially, Peruvian intellectuals did embrace the Lombrosian born-criminal category and applied it mainly to indigenous peoples. Nevertheless, criminologists' enthusiasm for Lombroso's ideas cooled quickly, and they ended up preferring theories that focused on the social factors of crime such as the one developed by Tarde.[76] Also, Aguirre contends that lack of enthusiasm for biological explanations was connected to the evolution of racial ideas among Peruvian intellectual elites. According to this author, during most of the nineteenth century, portraits of Indians, blacks, and Chinese as *biologically* inferior were

[74] Aguirre, 40-41.

[75] Ibid.

[76] Ibid., 43-45.

uncommon.[77] Finally, he argues that most Peruvian criminologists entertained a notion of race that was an amalgam of biological, hereditary, and cultural features.[78]

First, as explained above, not even Lombroso maintained his initial idea of biology as the only factor that determined crime. In effect, before the turn of the century, he contended that biology was just one of several factors that determined criminality.[79] More importantly, Ferri, Lombroso's closest follower, cleverly assimilated other explanations on crime and included them in the Italian School's theoretical repertoire. In fact, it was Ferri and not Lombroso who became more influential among Peruvian criminologists. More importantly, other theoretical options such as the one developed by Tarde did not necessarily provide less exclusive explanations on criminality (see chapter 1). In other words, European theoretical trends during the end of the nineteenth century did not have irreconcilable structural differences. As a consequence, theories "available" for Peruvian criminologists' did not provide a truly more "social" perspective on crime.

Second, if we examine the discourse of Peruvian intellectuals who seemed to disregard biologic determinism in their studies, we will find that their positions were inconsistent. For example, Javier Prado y Ugarteche criticized in his thesis Lombroso's "obsession" for biology, arguing that social causes of crime were important too.[80] Nonetheless, Prado himself seemed obsessed with race and biology when, four years later, he affirmed that *zambos*, *multatos*, and *mestizos* had inherited "the vices of their races" and

[77] Ibid., 47.
[78] Ibid., 49.

[79] Beirne, 154.

[80] Prado y Ugarteche, 133.

that "blacks and Indians" had a negative influence on the country.[81] In addition, he claimed that the best remedy for Peru's condition was the modification of the race to renew "our blood and our inheritance through its mixture with other races that provide new elements and beneficial substances."[82]

Furthermore, Jiménez—Aguirre's best example of the Peruvian rejection of Lombrosian theories—argued that although the idea of a born-criminal "disgusted" his reason, he could not deny that some individuals had an "innate perversity."[83] Contradictorily, in the same text, he contended that social factors determined criminality, which he considered a relief, because then social conditions could be ameliorated and, as a result, criminality would decrease.[84] Nevertheless, years later, he elaborated a draft of a Penal Code that included "savages" and "semi-civilized," indigenous delinquents in the area of disabled and degenerated criminals.[85] Thus, for Jiménez "savagery" was related or similar to disability. If social factors were truly determinant for this criminologist then he would not have considered Indians as handicapped.

Apparently, the opinions of Prado and Jimenez seem contradictory. On the one hand they denied the excesses of biological determinism but, on the other hand, they seem to embrace it. I believe that one can resolve the conflict present in criminologists' discourse by approaching it from different perspectives. First, it is important to take into account that

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[81] Prado y Ugarteche, "Estado social del Perú," in *Pensamiento positivista Latinoamericano,* (Caracas: Biblioteca Ayacucho, 1980), Vol. I, 326.

[82] Ibid., 334.

[83] Jiménez, 117.

[84] Ibid., 185.

[85] Comisión Parlamentaria Compuesta por Placido Jiménez y Gustavo Cornejo, *Proyecto de código penal*, (Lima: Imprenta Minerva, 1928), 16. Specifically Art. 581: "Salvages, semi-civilized, and deaf and dumb."

consistency is relative. Intellectuals change, as do their ideas. Functionality is an important factor, too. It is one thing to write an essay with no repercussions outside of the academic world and another to write a set of laws which could be applied nationwide. For Jiménez, his thesis could have been just a means to show theoretical management while his draft of a Penal Code could have addressed his social concerns more directly. Functionality, then, is something to consider when analyzing intellectuals' ideas and rhetoric.

Second, theories are not "packages" intelligentsias develop or acquire. They are sets of independent ideas that one can adapt, reinterpret, and enrich. More importantly, those ideas could be used selectively. If we pay attention to Peruvian intellectuals' discourse, we will find that although most of them disregarded non-white populations, they used specific discourses when addressing different racial groups. The characteristics they assumed as "natural" for Chinese were totally different from the characteristics they claimed for Indians or Blacks. For example, some intellectuals tended to use race as a concept linked to culture when referring to Indians but as a concept linked to biology when referring to Chinese peoples. In other words, biology or culture weighed differently when applied to different racial groups.

For instance, in his thesis, Jiménez tended to portray Indians as victims or minors[86] while considering Chinese people as the most despicable of the Asians who transmitted "by inheritance or imitation all their vices to the ones that surround them."[87] He did not even mention blacks in his thesis. Jiménez's opinion on Chinese and Indigenous peoples was not his invention. He took his discourse on Chinese immigrants from hygienist César Borja

[86] In a striking passage of his thesis he mentions, to illustrate the effects of the environment over human beings, that "among us who would dare to deny the deep differences of every order that separates the *man* from the coast to the Indian of the highland?" Apparently, for Jiménez, men and Indians were two different categories. Jiménez, 172.

[87] Ibid., 321.

who, in 1877, denounced that, especially in Lima, Chinese men were producing a new generation of children who inherited no elements of their Peruvian mothers but all traits from their Asian fathers. As a result, those kids were ugly, weak, rachitic, and imperfect.[88] Yet, these ideas were not exclusive of the criminological or hygienist discourse; they were a commonplace among Peruvian intellectuality.

In fact, José Carlos Mariátegui, one of the most important Latin American intellectuals of the twentieth century, argued that the Chinese seemed to have "inoculated their offspring with the fatalism, the apathy, and the tares of the decrepit East." He also added that "the black brought his sensuality, his superstition, and his primitivism. [The black man] did not have the conditions to contribute to the creation of culture but to clog it with the crude influence of his barbarism."[89] Curiously, Mariátegui's opinion on Indians was totally different. He considered them as victims of a system which condemned them to exploitation. Mariátegui's legacy on indigenous peoples' rights is undeniable. He is remembered for having presented the Indian problem as the central social question of contemporary Peru.[90]

Similar to Mariátegui, Fernando Ortíz in Cuba believed that both Chinese and Blacks were detrimental elements, interpreting some of their cultural practices as criminal activities.[91] He even considered the Afro-Cuban *brujo* as an example of Lombroso's born-

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[88] César Borja, "La inmigración china es un mal necesario de evitar," Ph.D. diss. University of San Marcos, in *Anales Universitarios del Perú* 10, (1877): 88.

[89] José Carlos Mariátegui, *Siete Ensayos de Interpretación de la Realidad Peruana*, 3rd ed. (Caracas: Biblioteca Ayacucho, 2007), 288. For more about this topic, see Nelson Manrique, *La piel y la pluma*, (Lima, SUR Casa de Estudios del Socialismo, 1999).

[90] Aguirre, 48.

[91] Fernando Ortíz wrote almost exactly the same about Chinese and Blacks: "The Black race brought its superstitions, its sensuality, its impulsivity; in short, its African psyches. The yellow race brought its drunkness by opium, its homosexual vices, and other refined corruptions of its secular civilization." Ortiz, 15.

criminal.[92] All these dissimilar ways to refer to specific racial groups reveal the flexibility of race as a concept. In this sense, I agree with Nancy Stephan when she contends that Latin American intellectuals interpreted biological determinism following Lamarck's theory of inheritance of acquired characteristics.[93] This meant that biology could be modified and improved. As a consequence, Latin Americans were not excluded from progress. Nonetheless, in the Peruvian case, it seems that the capacity of improving shrank when intellectuals analyzed ethnic groups other than Indians.

Anthropologist Peter Wade has analyzed this problem in Colombia arguing that although Blacks and Indians have been traditionally considered as the "others" in Latin America, they have been characterized differently.[94] I consider that dissimilar characterizations, at least in the academic discourse, expressed also intellectuals' selectivity when applying theories. In addition, racial categorizations, while strongly stereotyped, helped to link specific deviant attitudes and tendencies to certain actors. Chinese, for example, were frequently blamed for pedophilia or homosexuality, while Indians in the highlands were blamed for savage crimes.[95]

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[92] In fact, Lombroso wrote the prologue of Ortiz's book. Ibid., 367.

[93] Nancy Stephan, *"The Hour of Eugenics": Race, Gender, and Nation in Latin America*, (Ithaca: Cornell University Press, 1991).

[94] Peter Wade provides the concept of *estructuras de alteridad*—without developing it—to refer to the different ways people have categorized blacks and Indians. He contends that both "have been characterized as the "others" and located in the spaces destined to the marginalized of the nation. However, they have been fitted differently into what I call otherness structures." Wade, *Raza y etnicidad en Latinoamérica*, (Quito: Abya-Yala, 2000), 48.

[95] It is important to take into account the role of nationalistic ideas that intermingled with the criminological discourse. For example, Jiménez argued that foreigners such as Asians, Chileans, Ecuadorians, and Italians contributed to the worst types of criminality in a greater proportion than Peruvians did. He even contended that the data provided by statistics did not reveal the real impact of the crimes committed by Asians, for example. Jiménez, 319.

Finally, the way criminologists addressed these characters aimed at portraying them fundamentally as pre-modern or anti-modern individuals. For example, Indians were considered "uncivilized" individuals who needed to go through an educational process to truly become citizens (pre-modern). The Chinese were portrayed as opium maniacs who spread their vices to local dwellers, affecting their development as healthy and progressive workers (anti-modern). Thus, intellectuals considered these characters dangerous not only because they had "deviant" tendencies but also because those tendencies did not belong to the dynamics of the modern city.

c) Anarchists

"Dangerous" individuals who did appear as a consequence of modern city dynamics were the anarchists. During the turn of the century, they increasingly appeared in the criminological discourse as a potential menace. In this sense, Aguirre contends that in the twentieth century the world of labor and the world of crime became, in the eyes of experts, discrete territories. This situation resulted not only from the intellectuals' interpretation of working classes' roles but also from the evolution in the workers' own forms of social identity and consciousness.[96] It is not the purpose of this section to discuss workers' discourses. Nevertheless, it is pertinent to comment on the ideas that some intellectuals had about the politically organized working classes.

Already in 1895, Jiménez agreed with Tarde's idea that the proletariat represented a source of criminality.[97] He, nevertheless, considered it a relief that "only the echoes of the socialist and anarchist tempest that hit the old European nations" had arrived in the

[96] Aguirre, 61.

[97] Jiménez, 211.

country.[98] Despite the fact that anarchism seemed to be far away from Peruvian shores, Jiménez warned that economic malaise among working classes was highly dangerous because it affected more people.[99] Five years later, Mariano Ignacio Prado y Ugarteche, the older brother of Javier Prado, provided a more dramatic interpretation of anarchism. In his study *El tipo criminal*, he contended that anarchists were criminals whose dreadful attacks kept European societies terrified. Then, he asked, "how to explain their irrepressible homicidal longing if we do not accept the existence of an anomaly that involves the perversion of the moral sense which transforms them into human monstrosities?"[100]

Both intellectuals' perspectives about anarchism developed at a moment when union leaders from Italy had started spreading anarchist discourses among Latin American working classes. During this period, European anarchists fostered the creation of unions in Argentina, Mexico, and Peru. In the Peruvian case, this influence converged with an already developed sense of organization among the working classes. In fact, Lima went through a number of strikes produced by intense union activity between 1883 and the first decade of the twentieth century.[101]

More importantly, Mariano Ignacio Prado's exaggerated view on anarchism also makes more sense if we consider that, besides being an intellectual, he was a well-known entrepreneur.[102] In fact, during his years as a deputy, using his "paternal" relationship with his eighteen hundred workers as an illustration of his knowledge on the issue, Prado

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[98] Ibid., 212.

[99] Ibid., 349.

[100] Mariano Ignacio Prado, *El tipo criminal*, (Lima: Librería Escolar é Imprenta Moreno, [1894] 1900), 75.

[101] Joël Delhom, "El movimiento obrero anarquista en el Perú (1890-1930)," paper presented in the Society for Latin American Studies Annual Congress, Birmingham, April 6-8, 2001.

[102] Felipe Portocarrero, *El imperio Prado: 1890-1970*, (Lima: Universidad del Pacífico, 2007), 54-78.

opposed laws which sought the protection of factory workers.[103] In sum, although it is difficult to tell if Prado's view on anarchism was or was not a common place among Peruvian intellectuals, anarchism started being criminalized by the 1920s. In fact, Plácido Jiménez's proposed Penal Code (1927) included six articles that outlawed actions that could be regarded as anarchistic.[104]

d) Angels or Demons: Children as Potential Criminals

Intellectuals' search for potential "dangers" soon included the youngest members of Lima's society. During the first decades of the twentieth century and under the influence of eugenics, Peruvian criminologists reinterpreted the role of children, portraying those abandoned or vagrant as little versions of future criminals. Indeed, the criminalization of children developed progressively. What began as a complaint against the spread of young beggars soon became a scientific search for innate criminal characteristics in these youngsters.

Again, it was Jiménez who was one of the first to analyze vagrant children through criminology. He believed this type of vagrancy to be the most dangerous of all because it fostered the increase of criminality in the city. He denounced abandonment and exploitation as the main causes of this phenomenon.[105] Despite the fact that he thought that some children were naturally perverts, he tended to portray youngsters as victims, who had to sell newspapers and lottery tickets to survive. More importantly, he considered urgent the

[103] Ibid.

[104] These articles comprehend: Anarchist attack, cooperation with anarchist's attacks, conspiracy, provocation, apology, and association with anarchist aims. Comisión Parlamentaria Compuesta por Placido Jiménez y Gustavo Cornejo, 88-89.

[105] Jiménez, 265.

adoption of a number of actions promoted by the Penitentiary Congress of Stockholm (1878). These actions aimed at the protection of children through their education and reclusion in specialized institutions. More importantly, they sought the transformation of vagrant children into qualified and efficient workers.[106]

Years later, Peñaloza developed a more alarming view of deviant children. He argued that minors' criminality was a global phenomenon that also affected the country. Even more, according to him, juvenile delinquency was "a social plague that menaced the future of universal life."[107] Through a more scientific rhetoric, he contended that physiological, psychological, and social factors caused juvenile delinquency. Like him, with the passage of years, other criminologists, physicians, and psychologists increasingly focused on biology and psychology as causes of criminal behavior among children.

For example, in the 1930s, Carlos Bambarén, a physician and professor at San Marcos University pursued the analysis of the Peruvian child "in a state of abandonment" through a bio-anthropologic prism. He examined and measured a hundred children that lived in orphanages and other public institutions of the capital. Bambarén found that the range of ages between twelve and sixteen years old was when "innate tendencies, psychological handicaps and other anthropologic factors that make the children enter the state of social and material dangerousness awoke."[108] Although less scientifically, Juan Luis Hague, Bambarén's colleague, contended that public opinion had romanticized vagrant children that sold newspapers. For him, these children were not little urban heroes

[106] Ibid., 270-271.

[107] Peñaloza, 127.

[108] Carlos Bambarén, *Cátedra de criminología de la Universidad de Lima*, (Lima: n.p., n.d), 30. According to the information included in the text it should have been published in the 1930s.

but very dangerous (*peligrosísimos*) individuals.[109] His perspective opposes Jiménez's late-nineteenth-century view on these little urban characters.

More importantly, when Bambarén referred to the Peruvian abandoned child, he was actually talking about male minors because his research only focused on boys. Actually, previous anthropometric studies had done the same. In 1912, for example, Guillermo Fernández Dávila examined male students of the *Escuela Normal de Varones*; later research also measured soldiers.[110] Girls were hardly mentioned in studies that focused on Peruvian childhood. This silence is a reflection of a strong tendency to avoid women as a topic in criminology. In fact, in this case, silence is more eloquent that words. The few criminologists who mentioned Peruvian women in their studies portrayed them as victims of poverty and abandonment or as examples of honest behavior.

For example, in Jiménez's writing, women illustrate education's failure to prevent deviant behavior. According to him, although women's education was deficient in the country, they did not engage in criminal activities.[111] Jiménez also praised women's religiosity because he believed that it fostered moral principles. Besides Jiménez, Hague also made some comments on female criminals but only to stress that pregnant women had less responsibility when committing a crime because of their condition.[112]

In general, as historian Maria Emma Mannarelli argues, during this period, discourses on modernity influenced the way intellectuals and authorities interpreted the role of women in Peruvian society. Women became important elements for the modernization of the

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[109] Hague, 45-46.

[110] Bambarén, 5-9.

[111] Jiménez, 246.

[112] Hague, 60-61.

country because they were producers of Peru's future citizens. As a consequence, they were supposed to foster moral principles and ideals of order and progress.[113] One can relate criminologists' silence to women's status in these discourses. Also, the fact that criminology was a field dominated almost exclusively by men—studies on criminology written by women appeared late[114]—might have resulted also in the obliteration of women as criminal subjects.

The Scientists

The final and most important character in the criminological discourse was, of course, the criminologist. As I explained above, these intellectuals did not write their studies for a large audience. Their interlocutors were mainly other scholars, the authorities of the university, and the heads of public offices. Criminologists, then, were careful of the way they portrayed themselves in their discourses. In fact, their discourse on their role in society changed over the years. They initially used a rhetoric that emphasized the importance of their academic field and the effort that scientific work demanded. This rhetorical strategy, common of the process of professionalization, was succeeded by another one that stressed the role of criminologists as specialists. The rise of this new rhetoric was related to the development of new regulations that delimited professional fields and responsibilities.

In both discourses, criminologists stressed the importance of their role in society as individuals who could eliminate crime. This work, however, especially at the beginning, seemed to duplicate other professionals' duties, such as those of the police. Some Peruvian

[113] Maria Emma Mannarelli, *Limpias y modernas, género, higiene y cultura en la Lima del novecientos*, (Lima: Flora Tristán, 1999), 47.

[114] The first important study written by a woman was Susan Solano's *El Estado Peligroso. Algunas de sus formas clínicas no delictivas* (1937). According to Deborah Poole and Carlos Aguirre, this study was deeply influenced by Italian Positivism. Poole, 362; Aguirre, 54.

criminologists, then, invested some ink in stressing the differences between theirs and other professionals' duties. First, they emphasized that their objective was not to repress crime, but to prevent it. Criminologists portrayed repression, the police officers' prerogative, as brutish. Also, prevention performed by police officers was regarded as defective.

For instance, Jiménez claimed, "prevention by the police intends to avoid the commission of a crime when its seed has completely developed. [The police force] uses means of direct coercion that, because of their repressive nature, have been implemented with unfortunate success."[115] According to Jiménez, then, the police's empirical methods caused their failure. Hague also provides another example to define the criminologists' professional field. In 1933 he suggested the creation of a judicial police force which he considered urgent because common police officers were invading the field of judicial power.

According to Hague, police officers were not qualified to analyze crimes and criminals because they lacked the education and training to do so. Thus, as done in other countries, he proposed the creation of a new—and separate—type of police force of a better "category" and special "qualities" who would study crime scenes and material evidence.[116] This "scientific" police force would help the jurist or criminologist by providing him with elements for the broader analysis of crimes and criminals. In the end, it was only the criminologist who was qualified to determine criminal responsibility.[117]

Criminologists spread their ideas in different spaces such as the university and the congress. Javier and Mariano Ignacio Prado, Plácido Jiménez, Oscar Miró Quesada, Carlos

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[115] Ibid., 162.

[116] Hague, *La organización de la policía judicial en el Perú*, (Lima: Lit. Tip. T. Scheuch, 1933), 13-15.

[117] Ibid., 16.

Bambarén, and Juan Luis Hague were professors at San Marcos. Most of them also had different academic backgrounds. Mariano Ignacio Prado taught history from 1896 until he decided to commit himself to criminal law, becoming the dean of the Law Department in San Marcos during the 1920s.[118] As explained above, he also pursued entrepreneurial activities, directing around thirty businesses throughout his life. Furthermore, his brother, although less linked to criminology, embraced history and philosophy while practicing law. Miró Quesada dedicated his life to the academy. He fostered scientific journalism, geography, psychology, sociology, and anthropology through teaching and writing.[119] In the 1920s, Miró Quesada directed the Criminal Anthropology Office that Mariano Ignacio Prado had established.[120] In addition, Bambarén, a trained physician, oriented his studies towards forensic medicine and psychiatrics. Also, Hague embraced both pharmacy and law through research and teaching.

In addition, the Prado brothers had a strong relationship with the Partido Civil which they represented in Congress as deputies and senators during the first two decades of the twentieth century. Jiménez also reached important positions in the government. He became Minister of Justice in the 1910s and, later, deputy for the province of Cajatambo, located in the north-central highlands. Pío Max Medina, born in the south-central highland area of Ayacucho, also held a deputyship and became Minister of Promotion and Public Works between 1923 and 1924.[121] Likewise, Augusto C. Peñaloza held a deputyship for the

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[118] Guillermo Ramírez Berrios, *"Mariano Ignacio Prado y Ugarteche,"* (Lima: Instituto de Altos Estudios Jurídicos, 1962), 1-7.

[119] Luis Jiménez de Asúa, *El derecho penal en la República del Perú*, (Valladolid: Talleres Tipográficos Cuesta, 1926), 23-26.

[120] Gabinete de Antropología Criminal. Ibid.

[121] Alberto Tauro del Pino, *Enciclopedia ilustrada del Perú*, Vol 10 (Lima: Peisa, 2001), 1638-1639.

province of Huancayo, first inland and east of Lima, several times between 1919 and 1956. Mariano Ignacio Prado and Jiménez collaborated with each other in the elaboration of projects such as the one presented in 1905 for the suppression of the death penalty.[122] Jiménez and Medina also worked together in the elaboration of the 1924 Penal Code.[123]

Criminologists, then, were individuals with different backgrounds who tended to follow the power dynamics that linked academic and political spaces. This relationship helped to increase their status as they became influential characters in both spaces. Thus, as Aguirre contends, criminologists were soon acknowledged as experts in crime prevention and their discourse became a truth which required no further discussion.[124]

[122] Ramírez Berrios, 16.

[123] Other members of the Committee were: J.E. Ego Aguirre, V. Noriega del Águila, Carlos Calle, F. de Osma, and Víctor Maúrtua.

[124] Aguirre, 53.

III THE PLOT

> The diseased Peruvians, once soldiers of the scientific army, knew how to feel, with subtle emotion, the doctrinal changes in criminal law. The names of those who today live and work with tenacious constancy, prove that the desire for knowledge…, far from degenerate, have grown in volume and density.
>
> —Luis Jiménez de Asúa, *El derecho penal en la República del Perú* (1926)

Criminologists' prestige derived from the scientific foundations of the theories they embraced and also from their ability to portray themselves as experts on crime prevention. This work demanded not only the diagnosis but also the elaboration of solutions against criminality. In this chapter, I will discuss the "antidotes" these intellectuals prescribed against the dangers that "threatened" Lima. I contend that criminologists' recommendations reflected a perspective in which social order equaled the decrease of social mobility, the homogenization of the lower classes, and the increase of the state's authority. More importantly, criminologists' recognition of the existence of a state of dangerousness and its promotion in Peruvian legislation proved the important influence of the Italian School of Criminology on Peruvian criminal law.

Alchemy against Crime: Social Poisons and Criminological Antidotes

Part of developing "antidotes" against crime demanded the standardization of the social poisons. As seen in the former chapter, criminologists constructed highly stereotyped criminal subjects in whom crime became second nature. This type of construction also

allowed scientists to prescribe specific solutions depending on the type of deviant behavior. Since intellectuals needed more than their own claims to diagnose the existence of a criminal problem, they backed their analysis with statistical data. Peruvian criminologists promoted statistics in the country in the same way European intellectuals had embraced and fostered the use of statistics as the science of the accurateness on their continent.

Jiménez, for example, wrote that statistical data eased the solution of all sociological problems because it helped the specialist to analyze crime and discover its causes.[125] He demanded the development of a national statistical service and, most importantly, the opening of a class on statistics at San Marcos.[126] Jiménez's claims had already been partially solved. Under the rule of official Pedro Muñíz, the Intendencia de Lima—the city's police headquarters—had created the Sección de Identificación y Estadística (Section of Identification and Statistics, SIE) in 1892.[127] By the time Jiménez wrote his essay, the SIE was already using anthropometrical equipment to measure and photograph criminals.[128] Statistics, although important for criminologists, was a tool and not a solution. In this sense, Positivists elaborated a number of suggestions to fight crime which were, sometimes, controversial.

a) Education?

Most historians agree that criminologists believed that education was a means to lessen criminality. In fact, during the nineteenth century education became an important

[125] Jiménez, 107, 167.

[126] Ibid., 169.

[127] Aguirre, 69.

[128] Ibid.

tool for the homogenization of the population and the spread of moral principles in Europe and in Latin America. In general, European criminologists *seemed* to foster the same ideas other intellectuals and politicians promoted for the development of a progressive citizenship. Peruvian criminologists also engaged in fostering education, especially because they believed that progress demanded the moralization of the city dwellers and the "civilization" of the Indian "masses" in the highlands.

Indeed, criminologists' studies contain the word *education* in several chapters. There is one point missing, though. As explained in chapter one, the dominant doctrine among criminologists at the end of the nineteenth century opposed liberal notions of equality. Following this premise, criminologists contended that, although important for the development of progressive nations, education did not have the same effects in all groups of the population. Even more, according to some criminologists, education could actually increase criminal skills or ease the commission of crimes.

Already in the 1820s, the French lawyer André-Michel Guerry had rejected as baseless the common idea that ignorance caused crime.[129] In fact, he showed, in his statistical studies, that the more depraved and perverse the crime, the higher the educational level of the accused.[130] Guerry, nevertheless, contended that true moral education demanded more than just teaching reading or writing. Decades later, Italian and French scholars shared a similar perspective on the topic. Tarde, for example, discounted education's influence on criminality; he thought that education without a moral or religious dimension could actually increase opportunities for crime.[131]

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[129] Beirne, 125.

[130] Ibid., 127.

[131] Ibid., 158.

Peruvian criminologists shared some of their peers' preoccupations. One constant concern in their studies was the need to control "crazy" ambitions that arose in the name of equality and freedom through instruction. Criminologists perceived education as a somehow double-edged weapon. On the one hand, it did help to foster order, obedience, and patriotism among the lower classes. On the other hand, it seemed to provide "wings" to cross invisible frontiers of class that people were not supposed to cross.

Javier Prado hinted at this idea when he explained that equality should not be converted into insatiable ambition.[132] Prado interpreted morality as conformism. In his *Estado social*, he contended that although it was necessary to educate the lower classes, this should be done through work and industry because those were "the great means of moralization."[133] Plácido Jiménez, agreed with Prado. For him, instruction did not foster the development of virtuous men.[134] More importantly, he considered that by providing instruction, the state presented before the individual "tenting landscapes" without teaching him or her how to restrain "crazy aspirations." He argued:

> I do not know what fatal alliance causes the humble son of the laborer and of the artisan to despise the work in the workshops and in the fields as soon as he obtains the most rudimentary instruction.... He boasts of his limited knowledge, proud because he can read a newspaper, because he knows that the Sun is immobile and the earth moves around it, because he pronounces the language better; he is ashamed of the simplicity of his parents and does not resign himself to help them in their rough work, wanting to live, in his mad fantasies, from intellectual work, becoming a *bureaucrat*, becoming a *politician*; and the only thing he gets is to become cannon fodder in revolutions....[135]

[132] Prado, "El estado social del Perú," 329.

[133] Ibid., 334.

[134] Jiménez, 241.

[135] Italics made by Jimenez. Ibid., 242.

Clearly, Jiménez did not want the son of a laborer to become anything else than a laborer. For him, providing education to the lower classes meant to instill ambition which was highly dangerous. As "crazy" aspirations could not be satisfied through the working conditions destined for the lower classes, hate against the upper classes germinated.[136] Apparently, according to Jiménez, a single step separated hate against the rich and crime. Actually, he even "proved" statistically that Peruvians followed the same path that the French or the Italians on this issue.

In his study, he elaborated charts that showed that the provinces which had greater levels of literacy had also more crimes.[137] As explained in chapter two, Jiménez also proved his case by arguing that although Peruvian women were less educated, they did not show a tendency towards crime.[138] Finally, Jiménez designed a solution to stop the "bad" influence of education on the lower classes. He argued that as states needed great quantities of artisans and yeomen, formal education should be combined with the practice of a trade or the instruction on the cultivation of fields.[139] His idea was to "moralize" the lower classes or, in other words, keep alive the respect for manual work.[140]

The influence of eugenics some years later did not change the perspective on education. For instance, Peñaloza thought that education was important, especially for abandoned children, but it needed to be oriented towards two activities: agriculture or industry. He argued that criminal children should be observed in order to discover their

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[136] Ibid.

[137] Ibid., 245, 254.

[138] Ibid., 246-247.

[139] Ibid., 247-248.

[140] Ibid.

"natural" tendencies towards industrial or agricultural work.[141] In other words, according to Peñaloza, poor children's "vocations" only directed them to be laborers or farmers.

Other Latin American intellectuals also regarded education as dangerous. Fernando Ortíz, for example, echoed European criminologists' ideas on the topic. He believed that education had no influence on Cuban black *brujos*—witch doctors—because their savagery prevented them from progressing. Moreover, according to Ortiz, they could end up using education to improve their performances on witchcraft or *brujería*.[142] He argued that the ones that should be educated were the *brujo*'s clients so that they would stop being superstitious. Also, Argentinean Juan Alberdi had written decades earlier that elementary instruction given to the people was dangerous because it had allowed them to engage in political movements. As people's curiosity was "uneducated and rude," the only thing that caught their attention was the electoral press which contained "insults, lies, fallacies and other incendiary proclamations."[143]

b) Religion

Oriented education, nonetheless, did not ensure that the lower classes would accept remaining in their traditional lower-classes jobs without complaining. Therefore, some intellectuals suggested that authorities combine industrial/agricultural education with "great doses" of abnegation and humility. Religion, then, appeared in the criminological discourse as a means to reinforce "education" in the lower classes. Again, Jiménez praised religiosity's potential in the moralization of the people. He argued that although men of

[141] Peñaloza, 130.

[142] Ortíz, 279-280, 388.

[143] Juan Alberdi, *Bases y puntos de partida para la organización política de la República Argentina*, 2nd reedition (Buenos Aires: "La Cultura Argentina," 1915), 77.

superior culture did not need religion because they could "love goodness for goodness itself," the crowds' situation was totally different. He contended that "for the ones that could not cross" the borders of philosophy, religion was "totally necessary."[144] After all, people needed to believe in the existence of a universal provider of justice.[145]

c) Incarceration and Rehabilitation

The most important places of crime contagion were prisons. As explained in chapter two, criminologists considered Peruvian jails as kingdoms of vice. Most specialists, then, contended that prison reform was urgent and that authorities should take into account international advances on this matter. Among other reforms, criminologists suggested mandatory work and trade-oriented education—through the enablement of workshops—as the formula to decrease crime proliferation inside jails.[146] They also recommended isolation for young criminals.

Criminologists considered that vagrant and delinquent minors should be held in special spaces such as correctional schools where they would be in contact with work and instruction. In fact, in his study on eugenics, Peñaloza praised governmental efforts to build a correctional school oriented towards agriculture in Lima. According to him, there,

[144] Jiménez, 221.

[145] On the other extreme of Latin America, Fernando Ortiz held a very different perspective on the topic. He thought that religion in Cuba was a detrimental device because superstition, even if European, equaled ignorance. This country presented a different religious landscape due to the influence of African religiosity, though. In general Ortiz considered Afro-Cuban religiosity as amoral and contended that religious tolerance should be banned in Cuba. Ortíz, 383.

[146] Aguirre has published and participated in the edition of a number of books on this topic: *The Birth of the Penitentiary in Latin America*, (Austin: University of Texas Press, 1996), *Crime and Punishment in Latin America: Law and Society since Colonial Times*, (Durham, Duke University Press, 2001), and *The Criminals of Lima and their Worlds: The Prison Experience, 1850-1935*, (Durham: Duke University Press, 2005).

inmates would receive plots to stimulate their industriousness.[147] Likewise, some specialists believed that authorities should send adult vagrants outside the city to agricultural colonies. There, they contended, hate against laziness would develop inside ex-vagrants' minds, letting them embrace the benefits of hard work.[148]

Scholars used the same criterion for drunkards. In this case, criminologists not only recommended the reclusion of alcoholics in special asylums and in prison, if committing crimes, but they also suggested other types of solutions to excessive alcohol consumption. Jiménez, for example, contended that authorities should increase the taxes on alcoholic beverages but also decrease the taxes on "healthy" drinks such as beer or coffee.[149] He also criticized the promotion of alcohol in indigenous traditional festivities, complaining against the priests' consent of this practice.[150] In addition, Peñaloza argued that, in the city, workers would stop going to bars and taverns if they had other options for entertainment. He argued, then, that the opening of spaces such as the Teatro del Pueblo (Peoples' Theater) would provide factory workers with artistic plays. The access to these types of places would increase Peruvian workers' already developed artistic sensitivity and, as a consequence, they would stop going to bars.[151] Peñaloza's suggestion, although well-intentioned, implied that workers needed separate spaces for entertainment.

[147] Peñaloza, 148.

[148] Jiménez, 263.

[149] Ibid., 279.

[150] Ibid., 281.

[151] Peñaloza, 139 – 141.

d) Limited Migration

Initially one measure criminologists fostered, echoing hygienists' and other intellectuals' and politicians' claims, was the limitation of certain foreigners' arrival in Peru.[152] Intellectuals opposed, mainly, the immigration of Chinese workers because, as explained in chapter two, they considered it detrimental for the country. Their suggestions, nevertheless, lessened by the first decades of the new century for two reasons. First, massive migration of Chinese people ended in the 1870s. The presence of these immigrants in the following decades in urban spaces responded more to their accommodation in Peru's main cities rather than to the massive arrival of new workers.[153] Second, positivists' option to Chinese migration proved to be unsuccessful. They suggested that the arrival of white immigrants would not only provide a labor force but would help to "improve" the race. Nonetheless, European immigration failed even when fostered by the Congress through several promotional laws.[154]

[152] Prado, 133; Jiménez, 317-323.

[153] Also, although Japanese migration started in 1899, it did not have the massive dimensions of the Chinese one. Between 1849 and 1880, around 90 to 100 thousand Chinese migrants arrived in Peru. In contrast, only around 25 thousand Japanese migrants arrived in the country from 1899 until the 1930s. About this topic, see Wilma Derpich, *El otro lado azul*, (Lima: Fondo Editorial del Congreso del Perú, 2000), Amelia Morimoto, *Los japoneses y sus descendientes en el Perú*, (Lima: Fondo Editorial del Congreso Perú, 1999), Humberto Rodríguez Pastor, *Herederos del dragón*, (Lima: Fondo Edit. del Congreso del Perú, 2000) and *Hijos del celeste imperio en el Perú (1850-1900)*, (Lima: Sur, Casa de Estudios del Socialismo, 2001).

[154] The country seemed less attractive to Europeans because of the remoteness of the Pacific shores but, most importantly, because of the lack of socio-economical conditions that made that migration sustainable. Also, the Congress started to regulate migration through a number of laws elaborated to forbid the entrance of subjects considered potentially dangerous. Pilar García Jordán, "Reflexiones sobre el Darwinismo Social. Inmigración y colonización, mitos de los grupos modernizadores peruanos (1821-1919)," *Boletín del Instituto Francés de Estudios Andinos* 21(2) (1992): 972-973.

e) New Neighborhoods and Other Suggestions

Finally, some criminologists addressed the overcrowding problem in Lima by suggesting the development of cheap housing destined specifically for working class families. In this matter, these specialists echoed other intellectuals' and authorities' ideas which focused on providing workers with healthy environments in which to live.[155] Also, criminologists such as Peñaloza contended that without the bettering of the working conditions of the lower classes, vagrancy and criminality among minors would continue. He recommended the reestablishment of family life and the fostering of moral principles at home. In the case of abandoned children, criminologists also suggested the creation of more institutions such as nursing homes and hospices run by social organizations with experience in this issue.[156]

The Threads of the Skein

In the broader picture, criminologists' antidotes reflected a perspective on order and progress based on the harmonic continuity of class divisions and, as a consequence, on the limitation of social mobility. To achieve their objective, they promoted policies that would enhance class division ideologically and materially. Thus, oriented education, religion, and rehabilitation were supposed to reinforce class identification and love for manual work among the lower classes. Also, the creation of separated spaces designed for the entertainment and education of workers reinforced their isolation from spaces with the same aims reserved to upper classes. In some ways, then, criminologists' war against crime was also a war against the crossing of imagined class boundaries.

[155] Peñaloza, 119.

[156] Ibid., 120- 130.

More importantly, criminologists' best promoted solution against deviance was the increase of the state's authority. According to most specialists, it was the government's responsibility to find new ways to prevent and, when needed, repress crime even when this meant to go against people's rights. The reinforcement of government authority was fundamental for the achievement of political stability—something Peru did not have until the beginning of the twentieth century—and for the elimination of crime in the country. Criminologists' suggested several ways to achieve this goal; one particularly important method was the development of tougher laws. After all, as Pio Max Medina contended, weak laws allowed the spread of second offenders.[157] Of course, another important method authorities promoted was the development of crime prevention in which criminologists had an important role.

Nevertheless, the increase of governmental presence against crime needed the elaboration of a discourse which helped to justify such a task. In this sense, as seen in chapter two, Peruvian criminologists criticized the Classical School's defense of the existence of free-will in the commission of crimes. They regarded criminal classes as abnormal, providing the state with a justification to fight those subjects who, ultimately, did not think over their acts against society. In addition, criminologists interpreted abnormality differently when describing criminal classes in general. Some focused on psychological or physical degeneration. Others even transformed certain emotions into indicators of deviant tendencies. Hague, for example, contended that

> Select subjects are those who have developed healthy or constructive emotions: equanimity, faith, hope, strength, confidence, etc. In contrast, those who in life's setbacks experience emotions, which destruct energy, such as anger, fear, envy,

[157] Pio Max Medina, *El tipo criminal,* (Lima: Imprenta y Librería de San Pedro, 1907), 19-21.

> discouragement, etc., would have an ill and dangerous behavior towards others…. Certain emotions derive from ignorance, from deeply rooted ideas that powerfully influence people's activities. Others derive from a certain abnormal condition of the nervous system that produces hypersensitivity or moral anesthesia. In several people, emotions… reveal a deficient will, a true impotence to refrain evil passions that disturb psychic life.[158]

According to Hague, then, even emotions—especially if considered as belonging to the lower classes—could be criminalized. In any case, as criminologists seemed to prove abnormality as the main characteristic of the criminal classes, then, prevention by any means was justified. Jiménez, for example, criticized those who thought that policies against crime limited peoples' freedom and provided the state with an arbitrary power.[159] Peñaloza also was sound when requesting the imposition of criminal policies "without shyness or scruples" because that was the way to eliminate deviance from its roots.[160] Hague, for example, demanded social prophylaxis policies even when restricting freedom of assembly. He contended that only those with probed "moral prestige" could obtain permissions for organizing public meetings.[161]

Like these criminologists, others echoed similar ideas aimed at strengthening the state's authority in the name of the protection of society. Some of them recommended indefinite isolation of subjects considered dangerous, even if they had not committed crimes at all. The concept of social dangerousness, present in the published draft of the Penal Code of 1927, was, then, the most radical legacy of the Italian School to Peruvian criminology.

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[158] Hague, *La caracterización del delincuente*, 18.

[159] Jiménez, 161.

[160] Peñaloza, 70.

[161] Hague, *"Estudios Policiales,"* 8-9.

IV THE OTHERS
Provincial Intelligentsia and the Criminological Discouse

> To accept as absolute and irremediable the Indian's deficiencies would be to renounce the great mission of incorporating them into civilization. Science has achieved so many prodigies, even with abnormal beings, that we should not lose our hope for perfecting him.
>
> —Víctor Villavicencio, *Algunos aspectos de nuestra sociología criminal* (1930)

Criminological theories were not exclusive to Lima's intelligentsia. Cities like Trujillo, Arequipa, and Cuzco also had productive intellectual circles, most of them linked to provincial universities and trade associations. In fact, according to historian Carlos Ramos, a Peruvian specialist in legal history, the provincial production of academic publications on law hit a high during the first half of the twentieth century.[162] During this period, bar associations and universities published multiple gazettes and fostered debates on politics and law. Although the topics varied, criminal law and criminality were two of the main themes scholars debated in these journals.

Provincial intellectuals, trained in Lima or in the hinterlands, approached local criminality from different perspectives. In this section, I will discuss texts that focused on criminal subjects, causes of regional and local criminality, and possible solutions to deviance. I argue that the criminological discourse provided provincial intelligentsias with a means to reinterpret their own regional identities through the analysis of local criminality.

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[162] Carlos Ramos, *Historia del Derecho Civil*, (Lima: Pontificia Universidad Católica del Perú, 2005), T. V Vol. I, 319.

These reinterpretations included the development of sophisticated racial and cultural categorizations as well as conflicting perspectives on modernity.

The Anthropology of Deviance: Mestizaje and Indigenismo through Criminology

Proximity to indigenous rural populations was a decisive factor that influenced most provincial academic research, especially, the work produced in southern cities like Cuzco, Arequipa, and Puno. In fact, Peruvian *Indigenismo* found its most impassionate supporters in this area. *Indigenismo* was an intellectual movement that spread in Peru, Bolivia, Ecuador, Mexico, and Guatemala from the last decades of the nineteenth century to the 1940s.[163] This movement denounced indigenous peoples' perennial exclusion and harsh conditions of living. Although it focused on Indians, *Indigenismo* was basically developed by non-indigenous intellectuals who directed their ideas to a non-indigenous audience. Most importantly, although it demanded the vindication of indigenous peoples' rights and their integration into the nation, the *indigenista* discourse was basically paternalistic and hierarchical.

Angel Rama, one of the most important Latin American literary critics, contends in a study on Latin American narratives that Peruvian *Indigenismo* was a discourse developed by an emergent middle class as a reaction against the economic and political limitations of the oligarchic system. Thus, middle-class intellectuals fostered a progressive agenda, promoting the modernization and democratization of the country. This intelligentsia integrated indigenous peoples into its vindicatory discourse, transforming indigenous

[163] René Prieto, "The literature of *Indigenismo*," in Roberto González Echevarría and Enrique Pupo-Walker (ed.) *The Cambridge History of Latin American Literature*. (Cambridge, New York: Cambridge University Press, 1996), Vol. 2, 138 – 163.

people into a symbol.[164] Despite this apparent integration, *indigenistas* did not incorporate Indians as active participants of their project. On the contrary, they regarded Indians as an inferior population in need of an advocate. This explains why *indigenistas*, when referring to Indian masses, praised them indirectly through the idealization of their past while vilifying or pitying them in the present.[165] According to Rama, *Indigenismo* was, in fact, *Mesticismo*[166] disguised by rhetoric because, in this discourse, *mestizos* became the Indians' redeemers.[167]

Peruvian intellectuals committed to *Indigenismo* expressed its principles through different disciplines and activities. Juridical *Indigenismo*, for example, focused on the creation of tutelary legislation for the protection of indigenous people. According to Ramos, this type of *Indigenismo* arose from scientific positivism and from the official pro-indigenous discourse put forth by the state. This discourse, known as *Indigenismo de Estado*, was a mixture of demagogic and "well intentioned" governmental policies expressed through the creation of pro-indigenous programs and institutions.[168] Governmental inclusive policies, nonetheless, were inconsistent because most governments

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[164] Angel Rama, *Transculturación narrativa en América Latina*, 3rd ed., (Mexico: Siglo XXI editores, 1987), 124 – 172.

[165] Ibid., 144.

[166] Angel Rama defines *mesticismo* as the discourse of a social group mainly *mestizo* that belonged to the rising middle classes. This social group sought to confront the elites' social order which blocked the participation of the middle and lower classes in the modernization process. They aspired to represent the interests of all those marginalized by the elites, therefore, assumed the defense of the indigenous peoples. Elizabeth Garrels, *Mariátegui y la Argentina: un caso de lentes ajenos*, (Gaithersburg: Hispamérica, 1982), 70. Rama, 141-150.

[167] Ibid., 145 as the critical vision of some of the most important *indigenistas* of nineteenth and twentieth century, such as Clorinda Matto de Turner and José Carlos Mariátegui, who regarded land tenure as the key element to solve indians' situation.

[168] Ramos, T. V Vol. II, 209.

fostered laws that facilitated the exploitation of Indian peasants while openly declaring their commitment to the indigenous population.

In the legal discourse, the fact that scholars demanded the creation of legal "bubbles" for Indians involved three ideas. First, Indians needed to be protected from a number of characters —such as landowners, shysters, and unscrupulous authorities—who often took advantage of them. Second, Indians were not fully juridical subjects or, more clearly, actual citizens. Third, Indians needed to be protected from themselves because their practices, beliefs, and traditions went against their own progress. In general, intellectuals tended to consider indigenous peoples as helpless and even backward, explaining their backwardness in two ways: as a consequence of centuries of exploitation or as an expression of their own culture or race.

Texts that focused on Indian criminals echoed these two ideas and even combined them. Pío Max Medina, a lawyer born in Ayacucho and educated in Lima, analyzed Indians' "indolent and apathetic nature" and also proposed a remedy for their "degeneration."[169] In a thesis written in 1906, Medina argued that indigenous peoples' morbid spirit was the result of centuries of psychological influences that had affected Indians' will and habits. Medina contended that the Indians' passivity started with the Inca Empire, whose despotic and paternal regime destroyed the Indians' vitality. Later, Spanish rule made Indians hate work, acquiring a taste for laziness.[170] Also, Medina claimed that indigenous peoples' main problem was their ignorance. Indians did not know their rights and duties; therefore, they were not juridical subjects. Most importantly, according to this

[169] Pío Max Medina, *Causas del estacionarismo de la raza indígena y el remedio eficaz para su regeneración*, (Lima: Imprenta La Industria, 1906). Medina was born in Ayacucho in 1880, after studying law and political sciences at San Marcos University in Lima, he returned to his natal city. Medina was senator for Ayacucho and later, became Minister of Development and Public Works (1923 - 1924).

[170] Idid., 10.

author, education was indispensable for the regeneration of the indigenous peoples, who were not sovereign because they did not know how to read or write.[171]

Afiloquio Valdelomar, head prosecutor of Puno's superior court, published in 1923 a statistical study on the criminality in that state (see map in page vi). He argued that Indian criminality was a consequence of the Indians' alcoholism, poverty, and hunger, and of the expansion of landlordism. He denounced the continuous usurpation of Indian lands by landlords who falsified documentation, took Indian lands, and "allowed" peasants to stay as indentured workers on their own lands. Valdelomar seemed progressive when denouncing that if there were somebody to blame for the Indians' situation, it was Peruvian society as a whole because it did not assist rural populations.[172] Contradictorily, the author also affirmed that the Indians' laziness and lack of adventurous personality caused Indians' criminality.[173]

Furthermore, Valdelomar contended that the ignorance of the Indians and the unscrupulousness of the authorities characterized the general dynamic between Indians and local authorities. Despite this affirmation, a second read of Valdelomar's statistics and description of legal cases shows that Puno's indigenous peoples not only knew the legal system but also took advantage of it. In his essay, Valdelomar complained that, usually, when an Indian denounced a crime, he not only reported the author of the crime but a whole group of people he considered his enemies. Thus, Indians took revenge against their

[171] Ibid., 16.

[172] Valdelomar, 4-5.

[173] Ibid., 16.

adversaries knowing that lawyers would consent to their claims just to keep them as clients.[174]

Evidently, peasants were not alone in knowing how to trick the system. If they took advantage of the law by using it, some landowners took advantage of the law by disregarding it. For example, Valdelomar mentioned that a certain landowner did not report missing livestock because he considered it a waste of time. Thus, he preferred to chase and punish "the" thief himself by making the supposed criminal work on his lands.[175] Even if Valdelomar's cases were not representative of the whole region, they provide us with an interesting and paradoxical picture. While landlords, the ones supposed to "own" public offices, did not always use legal means to "achieve" justice; Indians, the ones supposed to need a special legal regime, took advantage of the law when possible. Although we should not conclude from this situation that both Indians and landlords enjoyed the same juridical status in practice, this case does show that Indians' legal isolation was more a rhetorical construction than a reality.

Some intellectuals related the Indians' "helpless" condition to the Indians' own culture. In 1932, for example, Enrique López Albujar, one of the most important Peruvian novelists and a respected judge, examined Indian criminality in Huánuco (central highlands). He argued that Indians had a "short range" mentality and a primitive logic. As a consequence, the Indians' "mental condition" made them act out of imitation. Thus, according to him, when Indians saw governmental authorities steal or mistreat people, they

[174] Ibid., 8.

[175] Ibid., 15.

concluded that if the authorities did so, "then it cannot be bad that we do the same."[176] Lopez Albujar, also contended that indigenous peoples' criminality was deeply related to their traditions and beliefs. For example, he described indigenous religious festivities as "fetishist activities with bacchanalian aims and horrendous promiscuity," which "facilitated the spread of criminality in all their forms, specially the ones against property and persons."[177]

Carlos Aguirre has argued that *Indigenismo* helped to discredit biology as an explanation for criminality.[178] According to him, *Indigenismo*'s emphasis on the redemption of Indians brought widespread doubt on the idea of an unavoidable biological tendency to crime among indigenous peoples. As a consequence, Peruvian intellectuals rejected the Lombrosian born-criminal category. As explained in chapter two, Aguirre contends that intellectuals preferred to follow French theories that focused on social causes of criminality and opposed Lombrosian biological explanations on crime. Also, he argues that, during the turn of the century, biological racism was replaced by a more optimistic social view that stressed indigenous and *mestizo* contributions to the construction of a national community.

I argue that *Indigenismo* actually helped criminologists to develop a more sophisticated construction of indigenous peoples as criminal subjects. In general, whether drawing on social, environmental, or biological factors, criminological theories helped to reaffirm an old discourse that portrayed indigenous peoples as helpless subjects, as people in need of redemption. More importantly, Peruvian intellectuals, especially provincial ones,

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[176] Enrique López Albújar, *Los caballeros del delito*, 2nd. Ed. (Lima: Editorial Juan Mejía Baca, 1973), 128.

[177] Ibid., 127.

[178] Carlos Aguirre, "Delito raza y cultura: El desarrollo de la criminología en el Perú (1890-1930)," in *Diálogos en Historia* 2, (2000): 79 – 106.

did not construct an optimistic discourse about the integration of the Indian and the mestizo to the national community. Although they increasingly considered Indians as part of the national community—or at least, they said they did—indigenous peoples and mestizos were not considered equals. Both had different and well-delimited roles in the criminological discourse, which ultimately reflected intellectuals' hierarchical and exclusive perspective on the Peruvian population.

First, intellectuals tended to explain inheritance in psychological terms, understanding it as an extension of biology. As a result, although provincial criminologists did not openly point to Andean physical features as indicators of deviance, they transformed Indians into psychologically abnormal subjects. Medina, for example, affirmed that external influences had transformed the Indian's psychology through inheritance.[179] According to him, the Indians' "morbid spirit" was the result of a long process in which tendencies were transmitted from one generation to the next.[180] Lopez Albujar was even cruder when analyzing indigenous bandits; he stressed savagery and sadism as two of these bandits' natural psychological characteristics. Also, César Aibar, in a thesis written in 1935, explained that centuries of exploitation and high consumption of alcohol and coca had atrophied indigenous peoples' nervous systems. As a consequence, Aibar argued, indigenous peoples' drunkenness was always accompanied with "more or less severe mental perturbations."[181]

At this point, it is important to stress that, although mostly hierarchical, the range of explanations on criminality was wide and perspectives varied. Anfiliquio Valdelomar, for

[179] Medina, *El tipo criminal*, 6.

[180] Ibid.

[181] César Aibar Valdez, *Diez años de criminalidad en Arequipa (interpretación)*, (Arequipa: Tipografía Librería Quiroz Perea, 1935), 33.

example, said that criminality was a consequence of economic and social inequality. For him, crimes were a manifestation, a symptom of bad living conditions. Thus, criminality's best solution was the elimination of poverty and injustice. Lopez Albujar's perspective was different. He combined environmental, psychological, and biological theories of criminality. Therefore, in a single text, we find him fostering racial mixing to develop a "more evolved"—or less primitive—average settler while analyzing the local environments' influence on people and asserting atavism as a cause for criminality.[182]

Second, some intellectuals tended to "adjust" concepts and theories according to their personal view on the region and the subjects they analyzed. As argued in chapter two, criminologists were selective when applying certain theories such as biological determinism. This selectivity was notorious when these intellectuals analyzed or compared criminals of different racial backgrounds. Thus, the treatment that some specialists gave to indigenous criminals was very different from the one they gave *mestizo* or foreign criminals. For instance, López Albújar described an indigenous bandit from Huánuco as a subject whose

> … nerves seem to electricize passion and his senses answer to all violent inspirations. The nose of this Andean criminal acquires a strange excitability which immerses him in a hallucinatory intoxication for long hours. He gets drunk smelling, and the smell, and blood, and turmoil are the necessary stimulants that make his virility, softened by coca and alcohol, react. …That is why, when he assaults, he does not conform with stealing passengers' bags or taking their animals…. He rapes and kills, leaving in his destructive work a testimony of his driven sexuality and his primitive fury.…[183]

[182] López Albújar, 196.

[183] Ibid., 121.

He also compared the Andean bandit with the bandit from the coast, portraying the last one as a *mestizo* who is

> less reflective than the Indian but more impetuous and faster in the attack; less greedy and thoroughgoing, less cruel and bloodthirsty. He does not enjoy, with rare exceptions, the spectacle of blood and pain. He does not feel that sadistic and a little bit ritualistic pleasure that the Andean bandit feels; that pleasure that leads him to drink the blood of his victims, to take the heart and eyes out and eat them with an ideological aim. He does not unleash his libido in his raids; not because he lacks the will, but because of his modesty…[184]

López Albújar imagined the indigenous bandit as the antithesis of the *mestizo* bandit. In his discourse, the *mestizo* is racially and morally evolved, while the Indian is evidently primitive and savage. More importantly, the characteristics of the *mestizo* criminal are a direct denial of indigenous criminals' basic characteristics more than the elaboration of an independent set of attributes. The author imagined both characters as opposed because, for him, they represented the contradictory coexistence of a progressive coast and an unchanging highlands. Another important element to take into account when analyzing López Albújar's discourse is his direct identification with the coast—especially the north coast—because he was born and reared in that area.

López Albújar was not the only one who elaborated different profiles for criminals with racial backgrounds. César Aibar did the same but for a more reduced area, Arequipa, in the southern highlands. He initially contended that race was not a determinant factor of criminality. For him, all races had both degenerated and evolved individuals; therefore, Indians and *mestizos* should not be considered as immune or prone to crime.[185] Some pages

[184] Ibid., 196.

[185] Aibar Valdez, 11.

after this explanation, Aibar changed his opinion about degeneration and evolution as part of every race and argued that the infiltration of Asian immigrants who were full of vices and selfishness threatened urban Arequipa.[186] Aibar used the idea of "balanced" races selectively, forgetting it when referring to Asians, but stressing it when referring to Indians or *mestizos.*

More importantly, this author developed a very particular profile of the *mestizo* criminal. After reviewing the local statistics, Aibar found that *mestizos* committed most of the crimes in Arequipa. He, then, attempted to explain *mestizos*' criminality by reinterpreting theories on race and constructing this specific criminal subject as an "ideal" delinquent:

> We know that pure races are more balanced, they are the ones that follow a regular biologic course. When crossing, races struggle stressing virtues and defects of each ascendant … *Our mestizo* posseses the Spanish arrogance and the Indian hardworking spirit, as well as the fickleness and apathy of both which reflects the complexities of the *mestizo* spirit. This type of settler of our cities represents the rebel element of our history and the productivity of our agriculture and our industry… zealous advocate of his honor and manliness, he turns out to be a predominant element in crimes against persons, being the author of 70 homicides and 200 lesions.[187]

According to Aibar, *mestizo* assassins were no more than defenders of their honor. Even more, for him, sexual offenses committed by *mestizos* were perfectly explainable. He argued that the *mestizo*'s romanticism and sentimentalism led him to have the need to fulfill his "longings [?] in his *relationships.*" In other words, the *mestizo* raped because he was

[186]Ibid., 31.

[187] Ibid., 32.

romantic. Also, Aibar added, the *mestizo*'s zeal for preserving liberty made him react against authority, which explained transgressive acts like rebellion and disobedience.[188]

The ideas of López Albújar and Aibar are interesting examples of how the criminological discourse expressed broader interests, prejudices, and needs. On the one hand, intellectuals described indigenous criminal subjects as primitive and savage because criminologists needed to stress the differences between themselves and the Indians. Furthermore, they needed indigenous people to be redeemable because this made possible the intellectuals' status as moral entrepreneurs and Indians' redeemers. On the other hand, the fact that the *mestizo* criminal was constructed almost as a hero who did not need to be redeemed but understood reveals identification and self-validation.

Regional perspectives and modernity through criminology

Criminologists, nonetheless, focused not only on race when analyzing crime. In fact, provincial intellectuals such as Enrique López Albújar and César Aibar tended to address regional elements that helped increase or decrease criminality. In both perspectives, modernity played an important role in the elimination of criminality in the provinces. Nevertheless, some criminologists also considered modernity as a disturbing factor that could disrupt traditional values creating new types of transgressive behavior. In general, both authors maintained that criminality differed from region to region due to environmental, biological, and social factors. In addition, both López and Aibar focused on proving certain European theories such as the "thermic law of delinquency" wrong.

This law was developed in the 1830s by the Belgian scientist Adolphe Quetelet and the French lawyer André-Michel Guerry. According to Quetelet, higher frequencies of

[188] Ibid.

crimes against persons occurred in warmer areas and during warmer months while higher frequencies of crimes against property occurred in cooler areas and during winter months.[189] Although Quetelet and Guerry contended that temperature and climate were important, they stressed that these were only two factors among several others that determined criminality.[190] In his study on Peruvian banditry, López analyzed different Peruvian regions from south to north focusing mainly on the coastal area. He applied the thermic law and concluded that it was inaccurate. His main argument was that temperature and climate had no relation with the development of certain types of crime. Crime, according to him, had different causes, depending on the region.

His first case study, Tacna (see map in page iii), a southern city taken by Chile during the War of the Pacific and reincorporated into the national territory in 1929, had low crime rates. López argued that patriotism, the psychological influence of Chilean presence as well as Tacna's mild weather, and *Tacneños*' more evolved racial constitution were the main causes for the lack of banditry in that area. López's second case study, Moquegua, located also in the south, had low crime rates, too. Despite its minimum development, Moquegua lacked banditry because, according to López, landlordism did not represent a threat to Moquegua's peasants. As a consequence, hunger or revenge did not forced them to transgress. Huánuco, the following case, was different. The bandits of this region—the only one of his study that is completely located in the highlands—were indigenous men. For Lopez, statistics which indicated that Huánuco was a low-banditry region were wrong

[189] James Lebeau, "Crime and Climate," in *Encyclopedia of World Climatology*, edited by John E. Oliver, New York: Springer, 2005, 307. Also, Guerry's studies fostered cartographic criminology, a methodology that observed crime by analyzing regional elements such as literacy, poverty, race and physiology. In his attempt to interpret statistics of crime, Guerry mapped French criminality dividing it into two big regions: southern France, which was dominated by crimes against the person; and northern and northeastern France, which was dominated by crimes against property. Beirne, 121.

[190] Ibid.

because banditry there was deeply related to indigenous temperament and practices. According to Lopez, the thermic law also failed when applied in this region because Huánuco, as located in the highlands, was colder but had equal rates of crimes against persons and against property.

The following case studies of Piura, Lambayeque, and Tumbes were located in the northern coastal area. Lopez argued that Piura had a variegated criminal landscape because there banditry dominated certain towns such as Castilla. However, this area's bandits, as explained before, were very different from the "bloodthirsty" indigenous bandits of Huánuco. Lopez portrayed the areas with lower criminality as spaces where, somehow, external influences had helped improve social conditions. This was also the case of Chiclayo, capital of the state of Lambayeque, whose settlers Lopez considered more "hybrid" and, therefore "less resistant to all foreign influence."[191] Banditry in Lambayeque—and also in Tumbes—had decreased in part because the modernization of the productive system had fostered the modernization of daily life. Thus, according to him, cars, machines, trains, and planes had condemned banditry to be a pre-modern practice.

César Aibar's study focused on Arequipa, a state whose capital was in the southern highlands. Aibar portrayed Arequipa as an area that lacked the violent crimes that "abound in other regions."[192] He observed the different counties of Arequipa, examining maximum and minimum temperatures, atmospheric pressure, wind, earthquakes, and snowfalls. Aibar's first major "discovery" was the power of snow to affect Arequipa's dwellers. According to him, this phenomenon caused the perturbation of *Arequipeños*' nervous system which ultimately generated "an organic condition of restlessness, unfulfilled

[191] López Albújar, 242.

[192] Aibar Valdez, 10.

longings and desire to excel."[193] He believed that snowfalls made dwellers reach a maximum level of their skills, therefore inspiring them to achieve academic and military goals. He also contended that in "weak organisms," this phenomenon generated insanity.

Aibar also said that the thermic law of delinquency failed in Arequipa and concluded that criminality obeyed different causes such as migration and poverty. He portrayed the Chinese immigrants as a perturbing element and a bad influence for indigenous people. Aibar also stressed internal migration of peasants to the city as a major problem and cause of delinquency due to their poverty and lack of experience. In general, he argued that the social factors that determined crime were related to Arequipa's own progress. When analyzing the crime rates in Arequipa, he found out that its capital had much higher crime rates than the rest of the region. Aibar interpreted this data by arguing that this fact reflected two things. First, the capital had a bigger population; therefore, more crimes were committed. Second, the capital had reached higher levels of progress because "delinquency is a consequence of the progress and complexities as well as the difficulties that large cities offer."[194]

Modernity and progress, then, brought more than happiness to local dwellers. Another important "secondary" effect of *Arequipa*'s development was the increment of sexual assaults. On the one hand, Aibar blamed movies for perturbing *Arequipa*'s youngsters. He contended that movies contained scenes of "kidnappings, prostitution, and orgies" which increased sexual offenses because minors tended to imitate what they saw. On the other hand, the arrival of foreigners as well as people from northern regions of the country who carried "advanced sexual instincts" helped to stimulate local people's sexual behavior.

[193] Ibid., 18.

[194] Ibid., 43.

Finally, the spread of cafés and bars also endangered the situation of youngsters because Aibar regarded these as places of material and moral undoing.[195] In conclusion, criminality in Aibar's discourse had a double function. On the one hand, crime was as a real menace that affected Arequipa's dwellers. And, on the other hand, crime was the direct consequence of Arequipa's progress. Thus, criminality acquired more than one meaning. In this case, it could also be an indicator of success and modernity.

[195] Ibid., 61.

CONCLUSIONS

Criminological texts are more than just echoes of foreign theories. They express academic curiosity, moral sensitivity, and personal interest. They show intellectuals' selectivity and creativity. They are means to spread fear and spaces for self-promotion and professional definition. Criminology developed in Peru not only because Peruvians were prone to copy European theories but also because it allowed intellectuals to express a number of concerns and needs. More importantly, criminology promised solutions to the "problems" created by new social dynamics in a period of modernization.

The way criminologists imagined criminals and themselves reflected the urban, demographic, political, and socio-economic transformations in Lima. They also reflected the process of professionalization developed throughout the nineteenth century. Through their studies, criminologists contributed to the elites' project of modernization by criminalizing people that did not match their exclusive concept of order and progress. They also used the criminological discourse to link the country to broader processes in which criminality resulted from modernity. Thus, Peruvian criminologists interpreted criminality as a threat but also as a sign of progress.

Criminologists also used criminality to enhance their own role as professionals. In this sense, they stressed crime prevention as "the" way the state should fight crime. They

disregarded or belittled the work of other professionals and proclaimed themselves as specialists with access to scientific knowledge. Criminologists, nevertheless, were not only criminologists—or at least, not all the time. They combined their writing and teaching with activities in different spaces such as their own enterprises or the Congress. Furthermore, they had different backgrounds.

These intellectuals accommodated their rhetoric according to their audience, the possible effects of their writings, and the changes in their own personal perspectives on society and crime. They echoed traditional discourses on race and culture, giving those discourses a scientific appearance. As a consequence, they criminalized subjects that did not share white-Creole racial and cultural characteristics. Nevertheless, their construction of criminal subjects was not homogeneous; they applied theories differently according to the subject being addressed.

The exercise of imagining criminals evolved as new, threatening characters came to life. Thus, progressively, intellectuals criminalized politically organized working classes and even vagrant children. They also elaborated “antidotes” that promised to eliminate the “poisons” that threatened the city. These “antidotes,” or solutions, sought to limit social mobility and increase the authority of the state. Education, religiosity, incarceration, and rehabilitation, as recommended by criminologists, aimed at teaching lower classes not to aspire to more than their own status as workers or farmers. Moralization, as understood by these intellectuals, equaled conformism.

In addition, provincial criminologists had their own particular perspective on the topic. Like their peers from Lima, they interpreted indigenous peoples as potentially criminal and, influenced by *Indigenismo*, demanded separate legislation for them. According to these intellectuals, Indians needed to be protected from the abuse of landlords

as well as from their own backwardness which prevented them from progressing. More importantly, intellectuals did not construct an optimistic discourse about the integration of the Indian and *mestizo* to the national community. Although these scholars increasingly considered Indians as members of the nation, they did not regard Indians and *mestizos* as equals. Finally, some intellectuals reinterpreted local criminality through regionalist perspectives. This approach helped them to portray certain regions as spaces where criminality had "better" characteristics than in other regions.

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Education

- Bachelor of Arts (History). Universidad Nacional Mayor de San Marcos, 2005

Experience

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- Archives Assistant, National Archive of Peru, 2002
- Researcher, Ministry of Foreign Affairs of Peru, 2008
- Research Assistant, Texas Christian University, 2008 – 2009
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Honors

- Opportunity Initiative Grant, US State Department, 2007
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Publications

- "El infierno del Tawa Ñawi: un discurso de los campesinos de Huanta sobre castigo y justicia". *Cuadernos Interculturales* 5.8 (2007): 71 - 96. Viña del Mar: Universidad de Valparaíso
- "Familia en Huarochirí: apuntes sobre la vida familiar a través de la Revisita de Huarochirí de 1751." In Elías Toledo and Lorenzo Huertas (eds.) *Revisita de Huarochirí de 1751 por Sebastián Francisco de Melo*. Lima: Ediciones Quipu, 2009, lv – lxxvi

ABSTRACT

IMAGINING CRIMINALS
CRIMINOLOGICAL DISCOURSES AND THE CONSTRUCTION OF CRIME IN LIMA 1890 - 1934

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This research offers a new approach to the history of criminology in Peru. It focuses on the different ways Peruvian criminologists imagined crime, criminals, and themselves from 1890 to 1934. I argue that criminological texts are spaces were Peruvian intellectuals expressed academic curiosity, moral sensitivity, and personal interest. The way criminologists imagined criminals and themselves reflected the urban, demographic, political, and socio-economic transformations in Lima. They also reflected the process of professionalization developed throughout the nineteenth century. Through their studies, criminologists contributed to the elite's project of modernization by criminalizing people that did not match their exclusive concept of order and progress. They also used the criminological discourse to link the country to broader processes in which increasing criminality resulted from modernity. Thus, Peruvian criminologists interpreted criminality not only as a threat but also as a sign of progress.