

## Psychological Discourse in Brazilian Criminology

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### Abstract

This paper presents a historical research of the psychological discourse in the Brazilian Criminology from 1940 to 1960. It describes arguments that supported the articulation of psychological discourse in Brazilian Criminology, seeking to understand how psychological knowledge has established itself as judicial practice in Brazil. It took as material for analysis the Journal of Criminology, a publication that was Official Organ of the Institute of Criminology at the University of the State of Guanabara, between the years 1947 and 1967. From the examination of the selected volumes, there was a wide range of data concerning the inclusion of psychology in the study field of crime, accompanied by a great variety of possible compositions. With regard to thematic analysis, the data pointed to the distinction of the three lines of analysis: Epistemology of Criminology, Crime and Causes of Policies and Instruments of Social Control of Crime.

### Main Theme: Strangeness of "Psychologies of Crime"

Can Psychology explain crime? It seems that, in our days, yes. A brief approach to field of studies of crime indicates many ways in which psychological knowledge dialogues with those who propose to elucidate the criminal phenomenon. Take the distinction proposed by Neves (2003) and see that there are many psychologies of crime: Criminal psychology that studies the offender as the offender, the Judicial psychology that deals with their behavior as charged with an offense, Prison psychology that is dedicated to monitoring the offender in the discharge of a prison sentence and Legal Psychology which defines the necessary notions for the assessment and validation of personal circumstances - immaturity, drunkenness - and factual - mitigating and aggravating factors (Neves, 2003).

The inclusion of psychology in the discourse on crime also has practical evidence.<sup>1</sup> If we think, for example, on the *criminological examinations* carried out by psychologists who are part of the *Technical Committees of Classification* for the purpose of proposing progressions,

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<sup>1</sup> The following items in italics refers to legal provisions in Brazilian law that shows the presence of psychological knowledge in legal and judicial decisions.

regression schemes or conversions to the penalties of liberty deprivation of the offender in the prison system, we can see a type of articulation of the psychological discourse in Brazilian criminology. In case we consider the category of *inimputable* subject in the Brazilian Penal Code, which requires that an expert psychiatrist determines the criminal liability and the submission of the individual of a *security measure*, we can see another parameter of articulation of both fields of study. Last but not least, should we discuss the controversies around the topics related to personality disorders generated every time there is a controversial criminal case, it is plain to see how psychology has gathered a privileged place in the debate about crime, whether in the judiciary, the media or the talk of the town.

In case you want to comment on the course of a penalty imposed to the convicted, whether it is necessary to determine the liability of a defendant, or if you want to give intelligibility to a socially reprehensible conduct, we think that the use of psychological knowledge is a practice as often as varied. There is further evidence to consider how the psychological discourse is present in criminology. The literature on the subject of crime marks the inauguration of this process of intersection with the entrance of positivist criminology in Brazil in the early twentieth century. The criminological positivism has provided scientific basis for the association between crime and mental illness, indulging a link between the medical-psychological knowledge and certain judicial practices.

In the history of criminology, this thesis would have its weakening with the introduction of the structural-functionalist theory in which the offense is conceived as inherent in the rule, therefore, as a social structural phenomenon (Molina, 2002). However, if in the academic field, positivist criminology had lost strength as explanatory models of crime, we would be tempted to believe that the mechanisms of social control of crime derived from it persists, as previously mentioned, guarded by law and practice in operationalization of Justice in Brazil (Carvalho, 2004).

Studying how such reference to psychological knowledge has established itself as a judicial practice in Brazil is the scope of this work. It is the equivalent to ask how professionals of psychology and psychiatry were accredited as interlocutors of the judiciary, both in understanding the origin of criminal conduct, as well as prescribing the treatment of the offender. We are interested in studying this practice not as data, but as a problem, about which we are invited to think.

### **History of Criminology, Criminology in Latin America and Brazil**

In order to compose a scene for theoretical discussion on this issue, we present the authors who helped in understanding this field of study. We will discuss the history of criminology and its development in Latin America, from the perspective of Rosa del Olmo (2004), to understand the emergence of criminology as a science of the offense and the processes by which this knowledge was introduced in our continent. With intent to examine the formation of criminological discourse in Brazil, we will cover the history of Brazilian criminology as pointed by Cristina Rauter (2003). It will also be essential to understand the trajectory of the formation of forensic psychology in Brazil, as described by Jacob-Vilela, Santos & Pereira (2005). And, moreover, understand the

relationship between the concepts of crime and madness, from the insertion of medical-psychological knowledge in the judiciary context, as is commented by Carrara (1998).

Rosa del Olmo (2004) situates the birth of criminology, as a science devoted to the study of crime and delinquency, in the last decades of the nineteenth century, in Italy, with the Positivist School. Such theory is the hallmark of the initial attempt to apply scientific methodology to research the criminal phenomenon. In the context of European history, this science is presented in response to the crisis of capitalism, to fears of war and increased poverty. The Criminology plays an important role, since it promises to establish scientifically preventive and repressive ways of control of the offense.

The Criminal Law - the current positivist now called the Classic - believes that human conduct is based on free will. The Criminology rising from the Italian positivist school, in turn, is opposed to this idea of free will and uses the scientific ideal to assert itself as valid speech and promote the refusal of the past (Rauter, 2003). The cause of the offense is designed by the Positivist School as something "uncontrollable" by the subject. Thus arises the figure of the offender, a criminal who is unable to conduct himself according to the law: a guy who delinquē, not because he chooses to do so, but because this is determined by his nature and constitution, like bodies are determined the law of gravity. (Olmo, 2004) The rejection of the idea of free will is central to the Positivist School, since its concepts of law, crime and criminal are associated with the idea of determinism. For the Italian positivist criminology, the criminal act does not respond to the will of the subject, but a series of causes beyond its rationality, namely, his instincts, his affections and reflections.

The criminal subject becomes distinct from the ordinary, being conceived as one whose ability to control these "impulses" is deficient. If this guy is not following the norm, it's not by decision, but by fate: his *nature* is different from the other ones. The Criminal Anthropology provides the theoretical framework legitimizing the criminological thinking, taking this difference as a bio-psychological abnormality. The crime and the characteristics of the subject comprise a set of clues whose meaning the criminologist is able to decipher, evaluate and predict.

Sergio Carrara (1998) distinguishes between two perspectives in the history of knowledge of psychiatry and anthropology linked to crime, emphasizing the concepts and psychopathological entities created as a response to the crime problem. Initially, we have the nosological category of *monomania*, describing a type of mental illness in which, as opposed to mania, delusional content would be only partial, bounded to certain particular ideas. If, in mania, there was loss of rationality as a whole, in *monomaniacs*, the subject had a singular delusion as concerned a particular judgment. The type "persecuted-persecutor," for example, found broad application spectrum, giving intelligibility to situations where the individual had full mental faculties having its other, only in this respect, a commitment to rationality.

Later, this notion of monomania unfolds *reasoning monomania* and *instinctive monomania*. The instinctive monomania now includes occasions when the pathology was acting in the sphere of the will: alienated impulsive or obsessive. Already, *reasoning monomania* describes a person whose condition is always visible, with a cruel conduct, unruly, aggressive, amoral, vindictory (Carrara, 1998). The concept of *moral madness* contains the idea of a *pathological condition*. In difference to the situation or morbid state described by the concept of *monomania*, moral insanity describes a morbid condition that characterizes the subject from birth to death. Here, the idea of the distinction between normal and crazy persons is founded and begins to guide the medical observation.

The psychiatric thought would go through a new formulation with the concept of *degeneration* proposed by Benedict-Augustin Morel. This notion is based on the assumption of inseparability of physical and moral instances in human being and a belief in morbid heredity. In view of Morel, *degeneration* involves a biological inferiority from an mythical perfect human type. Morel makes a distinction between mental disorders due to degeneration and those that have no degenerative causes. While the non-degenerative diseases were treatable, degenerative diseases were the result of malformation of the nervous system and, therefore, considered incurable. Mental illness could be classified as *hereditary madness*, *madness caused by poisoning*, *hysterical madness*, *epileptic*, *hypochondriacal*, *idiopathic*, *sympathetic madness* and *dementia*. As the degeneration resulted from both hereditary factors and conditions of life and morality, the physician should pay attention to the body and mind of the examinee, as well as its environment and family history. While in *monomanias* and *epilepsy* was only possible to demonstrate the presence or absence of the disease, degeneration allowed claim greater or lesser degrees of engagement. Thus, the nosological classification of Morel contained: (i) madness linked to nervous temperament of the parents and transient abnormalities in affective and intellectual sphere, (ii) the *monomanias*, moral insanity and sexual perversion, (iii) an early tendency to evil; (iv) the degeneration itself: the *cretins*, *imbeciles*, *idiots*. (Carrara, 1998).

On the other hand, Cesare Lombroso, the founder of the Positivist Criminology, starts his anthropological studies on crime with the work that became emblematic of positivist criminology: "*Criminal Man*" (Lombroso, 1876). Under the strong influence of phrenology, the Lombroso's perspective identifies an abnormality that focuses on the physical and mental. The physical characteristics are expressed through anatomical stigmata - as "huge cheekbones", hair color, asymmetry of the skull and face, body posture, etc.. - And physiological signals - such as analgesia. To design the criminal abnormality, Lombroso, inspired in evolutionary biology, suggests that the offender would be an example of the phenomenon of evolutionary atavism. The atavistic biological type results from an opposite trend in the evolutionary development of

mankind, that shows physical and mental characteristics of primitive man (Alvarez, 2002).

The criminal sociologist Enrico Ferri advances in positivist perspective in criminology, proposing a new form of determinism where the causes of crime are at once organic and moral (Ferri, 1999). The abnormality of the offender would be essentially a moral failure, observable from the observation of the habits, behaviors, and especially of his vices. The society is divided into three different classes of individuals: (i) honest men by organic constitution and moral sense, (ii) atavistic individuals, abnormal organization of pathological and degenerative, and (iii) an intermediate class of occasional criminals. Next to take these classes, the criminologist should assess the degree of *temibility* - or danger - of the subject. Taking the crime as a sign of abnormality of the subject, the evaluation based on the severity of the offense and the personality of the subject would be necessary to determine the amount of harm that can be expected to come from this individual behavior.

In this context, the prison also acquires new significance. Going through all the changes made by the Penal Reform of the nineteenth century (Foucault, 1987), the prison takes two functions: (i) as a laboratory, provides an environment of controlled observation of criminals and (ii) as a machine, operates in the disciplining of individuals from the idea of rehabilitation. The history of criminology in Latin America was performed by the analysis of institutions dedicated to control crime and of academic events made for consolidation of this knowledge in our continent (Olmo, 2004). The criminological discourse gains global reach with the airing of "universal norms" done by the U.S., Britain, France and especially Italy. The import of criminological theories and problems in Latin America is operated by study tours and conferences abroad attended by "minorities Illustrated" as well as by "travel assessment" conducted by U.S. experts.

Among the topics covered in the major international conferences, Olmo (2004) highlights the articulation of knowledge of law, anthropology and psychiatry and concerns about the crimes of crowds and anarchist activities. The academic journals were also vehicles for the propagation of "universal norms", reproducing the doctrines without a critical reflection on the effectiveness of these on the reality of Latin America. The discussions were about the biological characteristics of offenders, as well as on ways of treating those people. In Olmo's view, this internationalization of criminology is closely associated with the expansion of capitalism in the post-World War II, in an attempt to rationalize the problems of social inequalities.

In Latin America, the adoption of the doctrines of criminology and its "universal norms" arise from the need for the state to resolve social conflicts. The European ideas enjoyed prestige and authority not questioned, so they are absorbed and repeated with an accuracy that eliminates experimental verification. The importation of European positivist philosophy has become an important strategy to cope with anarchist

movements and civil conflicts. The study focused on criminological offender allowed the rationalization of the uneven development among Latin American countries. Thus, it was possible to scientifically explain the underdevelopment of these countries in the biological inferiority caused by racial miscegenation. (Olmo, 2004) The concept of degeneration played a key role because it restricted the causes of crime to racial and mental limitations. The offense, understood as a result of biological inferiority, is treated by medical examiners as being important "to the alleged inferior races", ie, blacks and Indians.

The key concept here is *dangerousness*, describing a *tendency to evil*, a subject's criminal propensity. According to Olmo (2004), the post-war period is characterized by the doctrine of "social defense". The criminal policies are based on the idea that the State must protect society against crime and has to protect individuals to become delinquent and to recidivism. Arises the idea of prevention, which provides a new entry of the State in regulating social life, making the identification of foreign - and, later, the entire population. In the postwar period, this device is linked with other methods of social control to refuse the entry of "dangerous and harmful ideas" - anarchism and socialism.

Related to these offices, are constituted institutes of criminology in Latin America. The first two in Buenos Aires - created by José Ingenieros, in 1907 - and Sao Paulo - Instituto Oscar Freire, created in 1918. The institutes of criminology aimed to study the delinquents from the postulates of the Italian positivist school, emphasizing the psycho-pathological criminal aspect. In the 1st Pan American Conference of Criminology, held in Rio de Janeiro and Sao Paulo in 1947, members of the Brazilian Society of Criminology had intense participation. The resolutions of the Conference connected the psychological discourse and criminological knowledge. The main concern of the speakers seems to be the regulation of psychiatric expertise relating to the exercise of justice.

Olmo (2004) points out that the expansion of Criminology in Latin America is articulated with consolidation of capitalism, because the criminological knowledge served as rational justification for the inequalities based on original abnormality. Thus, criminological knowledge formed the academic research on the offender and his dangerousness, the normative legal instrument to measure security and affirmation of penal institutions as a method of transformation of the offender's personality. In Brazil, the entry of positivist criminology finds resonance in the deployment process of social medicine, started the second half of the nineteenth century. This medical knowledge applied to the social is, initially, from the spatial reorganization and observation and prisons (Rauter, 2003).

Social medicine is an important vector in the design of a subject that gradually moves away from the idea of soul and get the features of an organism, giving rise to the exercise of power and control devices connected to the social constitution of

bourgeoisie. (Alberti, 2003) A subjectivity determined by physiological characteristics and the empowerment of urban space by medical and psychological power can contribute to the joint that is made later between the humanities and the judicial practices, opening the field to positive input of criminology in the context of public policies of social control of crime, with the operators psychiatrists.

According to Rauter (2003), the Brazilian jurists observe the national scenario by the Italian criminological perspective, seeking to establish the bio-psychological characteristics that respond to degeneration in the Brazilian population. The inaugural moment of a thought directed to our criminology has the question of miscegenation as its main theme. The question about the races in Brazil arises, more specifically, a concern about the propensity of inferior races to the hereditary crime: black and Indians. In the judiciary field, is criticized the liberalism in law, by the thought that it would be inappropriate to the character of the barbarous people.

We observed two major concerns: (i) the selection of immigrants, particularly after World War II, from the concept of *tare*, and (ii) with the racial type that compose the Brazilian nation. Nina Rodrigues (1957) is the main articulator this thought. As political movements perpetrated by white immigrants threatened the devices of social control, the idea of crime as caused by racial inferiority loses efficacy, becoming inadequate to explain the origin of the offenses. It's necessary a theory more subtle, no longer supported in the given body, but such a feature observable only through the eyes of experts: the personality of the offender.

According to Jacob-Vilela, Santos & Pereira (2005), Theory of Degeneration, proposed by Morel in 1857, the book *Traité des dégénérescences physiques, intellectuelles et morales de l'espèce humain* has wide-ranging speech in Brazilian intellectuality between the last decades of the nineteenth century and early twentieth century. Morel tells about an relationship between madness and racial degeneration - constituted from physical and moral traits – making of *degeneration* a forensic category. Those authors evaluate the influence of the theory of degeneration in Brazilian medicine and mention some of appropriations that were made. It would be the case of Leonel Gomes Velho's thesis "*About the degenerated individual and his civil capacity*", published in 1905. The appropriations of Morel's thesis by Brazilian physicians would also include, as signs of degeneration, alcoholism, depression, phobias, mood changes, sexual perversions, among others.

From the twentieth century, medicine is a major Brazilian discourse present in criminology by structuring the postulation of organic causes for the crime. (Rauter, 2003) At baseline, these are bodily conditions, relating to sexually transmitted diseases, cardiac lesions, tuberculosis, worms, or hormone levels. The research made by Alcidesio de Oliveira Jr. (2005) discusses the continuity of the theories of biological determinism during the 1940s, demonstrating the continuities and adaptations of the theories of biological origins of crime among the authors. There are internal conflicts to

the field and determinism is not made clear, but is fundamental as the matrix of our theoretical criminology. Associating the phenomenon of crime to a bio-psychological cause, medicine is accredited in the judiciary field and qualifies the doctor as an operator of the prison system.

By the way, we could say that the discourse of justification for the deprivation of liberty as a therapeutic measure is present, even today, since the psychologist is a professional authorized by the Brazilian Law to assume the directorship of a Penitentiary Establishment. By an Act passed in 1984, a psychologist is a professional qualified to supervise a prison, This fact assumes greater importance if we consider that the idea of integration of psychological knowledge in the judiciary results from the acceptance of theories of psycho-biological determinism in criminology. It reminds us how much the speech of the sentence/treatment is still circulating within the criminal practices, guiding legal mechanisms such as this.

Later, psychiatry becomes part of the criminological discourse, providing a new way of understanding the causes of crime, this time linked to a mental abnormality. In the psychiatric conception of the etiology of crime, madness becomes the explanatory model for the criminal conduct: the offender suffers from a madness that disables the social life. By this new appropriation of criminal psychiatry, the State has a new way of exercising the power of kidnapping. The Alienated Act ensures at this time the domain of psychiatry on the delinquent person.

There is an appropriation of degeneration theory by Nina Rodrigues (1957), which publishes the book *The Human Races and the Criminal Liability in Brazil*, devoted to Lombroso, Ferri and Garofalo, in advocating the separation of law regarding the crimes of blacks and Indians, since they could not be judged equally with whites, given their biological inferiority. Rodrigues is also broad political activity in the context of national public policies, and participated in discussions about the application of medicine to Justice (MAIO, 1995).

Psychiatry credences itself to two entries in the judiciary. The first refers to the determination of criminal responsibility and is held in the trial stage. The type of insanity attributed to the criminal varies according to the *degree* - more or less unaffected by the condition of the mind - and the *kind* of mental faculty that is committed - reason or moral. The psychiatric discourse is part of the trial to point to the judge the degree of the criminal capacity of discernment regarding the illegality of his act. Thus appears to examine the sanity of the accused. The main pathologies related to crime were *moral insanity*, *epilepsy* and *psychopathy*. In view of Rauter (2003), psychopathy is the nosographic entity that most closely articulates psychiatric an legal discourses, because it describes the crazy lucid criminal, where opposition to the law is the symptom of a "moral disease" to which only remains the solution of the penalty of deprivation of liberty to defend society from the evils caused by these subjects.



The second entry concerns the destination of the criminal. This question was the subject of much controversy, opposing lawyers, who prioritize the right is the only sphere of action with the criminal, and the doctors, who want to embrace the responsibility for these individuals. In this context, the Manicômio Judiciário – a kind of prison for the insane - represents the joining of these two knowledges, making the appropriation of technology by legal and disciplinary medicalization of society. Jacob-Vilela, Santo & Pereira (2005) describe this system of social control achieved through the articulation between the legal and medical discourse with the identification of crime as a symptom of an abnormality. Identification introducing a practical examination of the personality of the criminal and enforcement of a sentence, now conceived as a treatment. Heitor Carrilho, psychiatrist, born in Natal (Brazil) in 1890, graduated from the Faculty of Medicine of Rio de Janeiro. He devoted himself to criminal psychiatry, and is the first director of the forensic hospital in 1921, located in Rio de Janeiro<sup>2</sup>. In 1930, occupies the Penitentiary Council of Rio de Janeiro, and has great performance in the composition of legislation relating to forensic medicine in the Criminal Code of 1940.

Later, the social factors have also gained prominence in the psychiatric approach to crime. Mental illness has become understood from the interaction between hereditary causes and environmental causes and the means characterized by poverty, malnutrition, family breakdown and moral constituted the social history of the disease. This proposal allows public health to have a broader social control, since the fight against crime now includes a policy of *social hygiene*. The vigilance of poverty is crucial in psychiatric discourse, because poverty is an expression of earnestness to the work of the subject, a moral vice. The poorer classes show a tendency to crime as such vices represent a lifestyle incompatible with living in society. Following this logic, the work becomes the privileged treatment, making of the agricultural colony a model of social control of crime. Its function is to promote the learning of the discipline, respect for law, obedience.

Secondly, there is the application of psychological tests to determine the liability and the dangerousness of the accused, constituting a new form of scientific discourse in legal affairs, since such tests would be supported in objectifying rationality of science. (Jacob-Vilela, Santo & Pereira, 2005).

### **Material Analysis: A Journal of Criminology**

We propose to consider the arguments and practices that underlie the link between the discourses of the psychological field and justice in Brazil, taking as material of analysis the Brazilian Journal of Criminology, a publication that was Official Organ of the

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<sup>2</sup> After the doctor's death in 1954, it is named Custody and Psychiatric Treatment Hospital Heitor Carrilho.

Institute of Criminology of the State of Guanabara University, between the years 1947 and 1967.

The choice of the *Journal of Criminology* (hereafter, the *Journal*), as material for analysis of the intersection between psychology and the judiciary, is based on the consideration that such publication was an academic effort to consolidate a field of discussion on the topic of crime among Brazilian intellectuals and could reveal the main arguments and disputes involved in the consolidation of both a public policy that invests in the treatment of the offender, as a network of professionals allowed to take this project forward. By constant reference to concepts pertaining to medical and psychological knowledge, and by publishing articles written by psychologists or psychiatrists, we consider that this publication represents an area of connection of these two skills.

It is worth mentioning that the *Journal* is a very special matter for analysis, since it integrates different types of data. We can find on this publication: (i) theoretical texts that are mainly published in the sections "Original Articles" and "Doctrine", (ii) evidence of judicial practice, observed by the transcript of proceedings, rulings, decisions commented, (iii) the action in the legislature, viewed from the dissemination and feedback of laws, and (iv) the academic politics of Criminology, perceived through the publicity given to conferences, courses and the admission of people in academic positions.

The Journal of Criminology was published during the period between 1947 and 1956 and between 1966 and 1967. Until 1953, was titled *Journal of Criminology*, the following year, changed its name to *Journal of Criminology and Criminal Law*. The magazine was quarterly, appearing in January, April, July and September. Its collection amounts to 40 volumes relating to his 12 years of existence. It was directed by Professor Roberto Lyra, until his second volume, was owned by the Captain Victorio Caneppa, Director of the House of Correction. Used for postal delivery, and its annual subscription cost, initially, Cr \$ 120.00 (one hundred twenty cruises) - equivalent to R\$ 115.00 (one hundred fifteen Brazilian Real) - and an odd number was purchased for the price of Cr \$ 35.00 (thirty five cruises) - equivalent to R\$ 33.00 (thirty-three Brazilian Real).<sup>3</sup>

Roberto Lyra was a law professor and founding member of the Faculty of Law of the State of Guanabara. He was president of the Brazilian Society of Criminology and therefore responsible for the theoretical orientation of the magazine, receiving the original articles, books, newspapers and magazines whose subjects were of interest for publication. The Brazilian Society of Criminology, directed by Roberto Lyra, has intense intellectual activity in Brazilian criminology. He founded, in 1954, the Institute

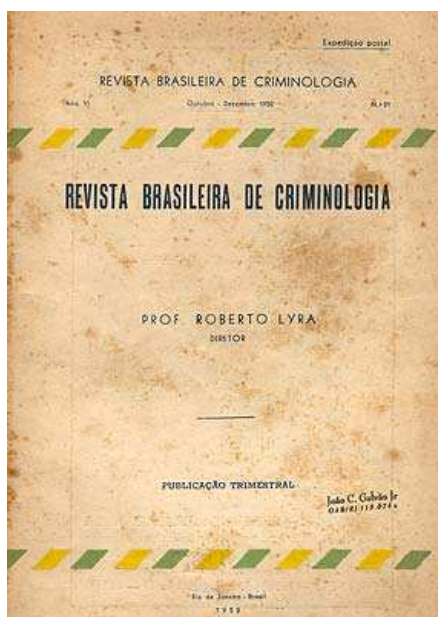
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<sup>3</sup> Update values held on the Foundation of Economics and Statistics from the State Government of Rio Grande do Sul: [http://www.fee.tche.br/sitefee/pt/content/servicos/pg\\_atualizacao\\_valores.php](http://www.fee.tche.br/sitefee/pt/content/servicos/pg_atualizacao_valores.php)

of Criminology at the University of the State of Guanabara. He devoted himself to Criminology, occupying management positions in Brazilian institutions for the study of this subject. Lyra also developed an intense activity in the organization of academic events related to the subject of criminology, becoming a reference for the Brazilian group of criminologists. In addition, he served in developing policies related to criminal issue, collaborating on many projects to recast the legislation in Brazil and Latin America.

The journal focuses thus both an important scholarly discussion of the issue of crime among Brazilian intellectuals, and other interesting data, such as selected fragments of judicial practice, transcription and reviews laws, news conferences, courses and academic politics. Thus, we envisage that the proposed exercise of psychology and psychiatry in public policy discussions, theoretical alliances and conflicts present in the consolidation project of Brazilian Criminology, in which the *Journal* was a major player, could show important arguments and discourse categories that mark the relations between psychology and the judiciary.

By setting its publication in 1947, the *Journal* has seventeen numbered sections, an "ineditorial" and a biography on the back cover.



The sections are structured as follows:

I - "Original Articles" publishes national and international articles whose themes are relate to the theory of crime and criminology in a relationship with other sciences.

II - "The Great Pages of the Brazilian Criminal Law": presents texts already published in previous publications but that have sufficient importance for the academic community to be republished.

### III - "Powers"

III. 1 - Legislature: excerpts from speeches, news Acts, events in the legislature.

III. 2 - Judiciary: case law, judgments, among other events relating to the Justice that contribute to the modification of judicial procedure.

III. 3 - Executive: governor of Rio de Janeiro's speeches are quoted and commented.

IV - "law": laws and decree-laws that modify the Criminal Code, Criminal Procedure Code, the Military Criminal Code and Criminal Law of Misdemeanor.

V - "Jurisprudence": an attempt to consolidate the Brazilian jurisprudence, with the description of the cases that originated them with the objective of informing the academic community about relevant changes and become a source of reference for consultations on jurisprudence.

VI - "Meetings and Conferences": description of academic events related to the subject of criminology, as well as the transcription of reports and speeches made on these opportunities.

VII - "Associations and Sessions": institutional policies of intellectuals societies associated with the topic of criminology as well as relationships between these entities.

VIII - "Courses": information about courses and competitions, notably in the criminal Law area.

IX - "Books and Magazines": Review of books and journals on criminology and also announcements of new publications in the area.

X - "*Animus Narrandi*" section of news: facts are reported for the group of professionals related to criminology<sup>4</sup>, complaints and suggestions to the government, legal cases, demographic data, etc..

XI - "*Animus Criticandi*": review of judicial decisions and public policies of social control of crime.

XII - "*Animus Jocandi*" are presented jokes involving legal situations, theoretical criminology, with the law professionals, etc..

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<sup>4</sup> Note that there is a tendency of the Journal to become a way of personal propaganda of the leaders of the Brazilian Society of Criminology by the frequent reference to the achievements of Roberto Lyra and Victorio Caneppea, initially, and later also published acts of Heleno Fragoso, Roberto Lyra Filho, among his other personalities.

XIII - "File" thread concerning the philology, are analyzed the origins and meanings of some words.

XIV - "It was Said...": a brief exposition of ideas, communications and excerpts from speeches considered relevant to the subject of criminology.

XV - "Polemics" controversies that instigate the members of the Brazilian Society of Criminology.

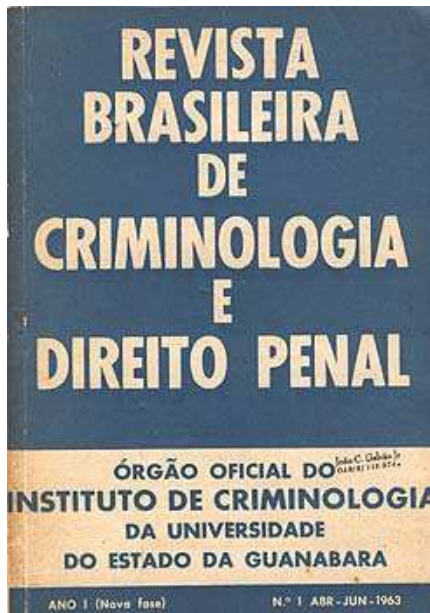
XVI - "Crime and Criminals in poetry": excerpts from the national and international literature related crimes.

XVII - "Problem for Law Students" section of the literature, most often a police story, and questions are raised to be commented in the light of Brazilian law.

"Ineditorial" historical account concerning the development of penal policies in Brazil. Notably, the construction of the Penitentiary of the Federal District (vol. 1 and 2).

"Biography": On the back cover, is presented a biography and an illustration of criminology authors.

As early as 1966 and 1967, the magazine changed its name to *Journal of Criminology and Criminal Law* and assumes another configuration. The Journal has now Prof. Benjamin Moraes Filho as Director, Prof. Heleno Claudio Fragozo as the editor, the Alexandre Gabriel Gedey as Secretary and João Marques da Silva as Secretary Treasury. Continues to have quarterly shipment. His exemplary loose expense, in 1967, NCr \$ 3.00 (three new cruise) - equivalent to R \$ 21.22 (twenty-one Brazilian Real and twenty two cents) - and its annual subscription costs \$ 11.50 NCr (eleven new cruise and fifty cents) - the equivalent, in our days, to R \$ 81.33 (eighty-one Brazilian Real and thirty three cents). No more propaganda.



It has now with eight sections, acquiring, in our judgment, a more formal structure.

I - "Doctrine": texts with conceptual character, explaining the doctrinal positions of law, theories and structuring of legal knowledge.

II - "Opinion" essay about the current state of law on a particular social problem.

III - "Chronicle": commentary on social mores.

IV - "Reviews and Communications" articles to disseminate research and historical reviews on a certain field of study.

V - "Notes and Information": news events of importance to the academic community, such as courses, conferences, obituary of personalities from the law, or assumption of academic administrative positions.

VI - "Bibliography" summarizes and comments on the launch of publications in the area.

VII - "Decisions" reports and comments on cases of jurisprudence.

VIII - "Decisions Commented" critically addresses procedures of Justice, a review of cases.

IX - "Laws and Projects" publishes and comments on the launch or update of the Brazilian legislation.

### **Methodology**

The methodology used in this research consisted of the selection of texts that had themes of interface between psychology and criminology from the reading of the *Journal*. We believe that reading and comprehensive analysis of texts distributed in 40 volumes of the journal would require more time than we have had to carry out this intent. We carried out a full reading of the volumes 1, 2, 15 and 16, they being respectively the first, second, last but one and last volume of the *Journal*. This detailed research has shown to be productive, since that were found fragments of mentions of psychological knowledge even in sections that, in principle, shouldn't be treating of topics of psychology, which indicates more strongly the link between those areas of knowledge.

The chronological cut followed the criterion of to: (i) initially to see the development and accommodation of the field of Criminology Brazilian, here represented by the initial volumes; and (ii) to compare it to a moment of greater maturity of the field, represented by the later volumes. Remember that there is an important milestone in the consideration of this final moment characterized by the recognition of the profession of psychologist, from the Law no. ° 4119 of August 27, 1962.

Each fragment was chosen in which it had a subject related to academic research of mental phenomena, being included investigations in psychology, psychiatry, and often criminal anthropology. The excerpts in the magazine are summarized in a chart bearing: its thematic classification, a brief description of the argument, its location in all the volumes of the *Journal* (Year, and page number) and the fragment text. However, it must be noted, that it was only taken the passage in which these terms were mentioned for academic research, or to scientific knowledge, since, at times, are mentioned under the same name to psychological concepts, but are used in colloquial order. Words like "personality", "judgment", "mind", "reason", when not intended to indicate scientific concepts, were not considered as representatives of an interface between psychology and criminology, in these situations.

### **Results**

Selected and tabulated the excerpts, this data was categorized by subject or theme. In order to understand the way in which psychology integrates the study of crime, we divided the data into themes, they are:

- Epistemology of Criminology: category used when the text argues on the set of disciplines that form the field of Criminology.

- Bio-psychological Causality of Crime: category that embrace theoretical perspective on the criminal phenomenon that postulates bio-psychological causes for criminal conduct.
- Policies and Instruments of Social Control of Crime: the category used excerpts presenting the arguments and policy proposals concerning the creation of prisons for the treatment and research of mental health of the prisoners and the practice of professional psychology and psychiatry at these sites.

Concerning the Epistemology of Criminology, psychological knowledge, in general, appears as a major speech explaining the criminal phenomenon. There is thus a common root in the two time periods covered, as regards the participation of psychological knowledge in Criminology. There is the psychological discourse for several performances: psychological theories and research that are disclosed, the presence of psychological content in course programs, the connection of the Brazilian Society of Criminology with the Brazilian League of Mental Hygiene. Nevertheless, if there is consensus about their participation, about the position of Psychology in Criminology there was a shock, and we could visualize a dispute over the hierarchy, led by the Criminal Law, which attempted to define the discipline which would fit the "government" of the field. In the final period, especially, there is greater closure toward the field belonging to the Criminal Law, either by explicit defense of this position or the lower frequency of articles written by psychologists.

The most interesting idea is the use of psychology as a unique model of science. Roberto Lyra Filho defends the thesis of an oscillation of criminological thought by similarity to the oscillating configuration also of psychological knowledge. According to him, the way of construction of psychological knowledge should be observed by Criminology, given the ability of psychology in dealing with concepts that change over time and for its constant quest for inclusion of new phenomena.

Regarding the issue of the Causes of Crime, we see an important comparison, concerning the change of approach in the debate between the determinist thesis and devotees of free will. If, in the 1940s, there was a predominance of the thesis of the bio-psychological determinism, it is important to note that in the 1960s, we find several references to the consolidation of the Animus Theory in Brazilian law, resulting in principal, in respect to the topic we are discussing, promoting the concept of will to determine the causes of crime. In the first volume, the theme of bio-psychological cause of crime is the keynote of the explanations of the criminal phenomenon, having as protagonist the Positivist School. The theory of degeneration, appropriated by Nina Rodrigues, thus offers a model of understanding the Brazilian criminal reality, in which the cause of crime is attributed to a biological inferiority of black people and mestizos.

Furthermore, the bio-psychological determinism, the political control of the offense takes a *curative* feature. Using a medical language to describe the crime, the prospect of integrating bio-psychological determinism, at the same time, both the design



of the criminal as a patient, and the idea of a State action compared to a treatment. Here we have the selection of immigrants - based on the notion of *tara* - the psychological testing in the population - the concept of psychopathy tax - all this takes on a tone of preventive Medicine. The legitimation of power achieved by this combination allows for greater social impact, since it is supported by a medical-scientific foundation. Already in this first period, there are attempts to conceive the criminal phenomenon in a social perspective; however, it is possible to say that there is a predominance of bio-psychological position. In general, the environment is designed, at least, as a trigger for the biological predisposition.

So if, at first, the speech was prevalent that the offender committed crimes due to certain bio-psychological and moral causes, what we found in the last two volumes is very different though, conveying a new perspective of understanding the crime, in which the notions of will and consciousness appear as the central axes of determining human behavior. This important subject of discussion in Criminology of the 1940s - between the theories of bio-determinism and those who advocate for free will - has, twenty years later, resonance with the refusal of a model of subjectivity conduct for which there is no possibility of a conscious decision. We see formulations that attempt to combine psychological and social determinants, as well as a perspective for the development of personality.

Moreover, the frequent recurrence to psychological concepts becomes very problematic, because of their subjective character, producing several attempts to formulate criminal typology independently of psychological notions. There is, among Brazilians authors, reluctance to conceive a right procedure based solely on objective criteria, the most frequent is the intermediate position that seeks objectivity without losing the subjective experience of it. In the topic of the will, we understand the purpose of this concept in the purpose to scout political life, since the notion of will, basing the idea of psychological warfare, is to characterize the crime of incitement. The supervisory power gains new significance, assuming that a subject can have action on the other, urging their will. Every expression of thought, is, thus, saving you the ability to influence people and, therefore, becomes the target of surveillance.

Finally, the subject of Policies and Instruments of Social Control of Crime shows initially a prospect that almost acquits the criminal, because, conceiving it as a patient, makes him become the competence of doctors. It remains, to the judiciary, two actions: choose a penalty for treating each criminal individually, or segregate that individual considered as incurable. The notion of punishment, therefore, becomes significant, taken as a treatment. The contracting nosographic category of *psychopathic personality* is the main category used in psychiatric evaluations as an explanatory concept of criminal conduct, precisely because it can characterize a type of abnormality linked to the sphere of volitional conduct. The psychiatric reports are consolidated as juridical practice, using concepts such as incomplete mental development. In the 1960s,

they are formalized and supervised practice in the judiciary and support the idea of criminal responsibility. Psychologists and psychiatrists are close to the spheres of judgment, the sentence, deliverance, etc.

There is controversy, however, on the instruments used. It can be seen that the critical tests, conducted by Roberto Lyra Filho. This makes reservations about Myra Lopez and RORSCHACH's tests. But it is noteworthy that this criticism is not about the assumptions of expertise, but the instruments. Lyra Filho just prefers another one. So, thinking about the concept of danger and on the evaluation devices that are related, it is believed to be an extremely important issue, since many legal and psychological support is, in our days, by reference to this notion. Being such a notion tied to the bio-psychological determinism of Positivist School, in its statement as legal practice, is an invitation to reflect upon the fact that little has been modified, despite the transformations of the concept of causation in criminology, the criticism of psychological tests, criticism to the ability of prison to make real changes in criminal individuals, among many others.

### **Conclusion**

From the examination of selected volumes of the *Journal of Criminology*, there was a wide range of data concerning the inclusion of psychology in the study field of crime accompanied by a great variety of possible compositions. The choice of a chronological cut was therefore crucial, since it allowed the treatment of the themes in a conclusive comparison. We believe, therefore, that the vitality of this work resides more specifically in the attitude in comparative time. Thus, with regard to thematic analysis, we consider that the distinction between the three lines of analysis: Epistemology of Criminology, Crime Causes and Control Policies and Instruments of Crime Social could satisfactorily describe the psychological discourse found in the *Journal*. Furthermore, we think that the cataloging of content related to Psychology, keeping the original passage and its location can assist future research, given the new tools of database analysis. We are able to conjecture that such material can also be used for the purpose of research on specific concepts, which, with digital location tools, are easily available.

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