THE INFLUENCE OF HEREDITARY TENDENCIES ON CRIMINAL ACTS

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LADIES AND GENTLEMEN:—

The subject that I wish to discuss before you tonight deals with Criminology, the study of which, though optional according to the curriculum of the College of Law, is no less important than other subjects taught in the College.

In order to give you a slight idea of the importance of our subject, it will not be amiss to say that Criminology is that branch of social science which has for its object the study of the causes of crime and the means of preventing it. There are two aspects to this science: the preventive and the repressive.

Preventive criminology considers crime not only as a result of man's free will, but also as a social phenomenon produced by various causes. These causes may be classified into individual, physical, and social.

The individual causes are the organic and physiological condition of the individual, his psychology, his atavistic and hereditary tendencies, the influence of age and sex, etc.

The physical causes of crime are the geographical environment of man, that is, the influence of the atmosphere, of temperature, of the soil and subsoil of his place of abode, as well as the influence of his food, etc.

Among the social causes of crime, the influence of poverty and wealth, of civil status, of education, of profession, and avocation may be mentioned.

The repressive aspect of this science is concerned with the investigation of questions relating to the administration of justice, arbitrary and judicial discretion, efficient and just procedure, the conduct of the attorneys for the prosecution and defense, temporary detention, damages, criminal records, the treatment of juvenile delinquents, the rehabilitation of ex-convicts into society, the advantages and disadvantages of probational judgments, and the reform of prison systems.

The mere enumeration of the different subjects included in criminology shows the importance of this branch of learning. The problems which this science tries to solve are of the utmost importance to the government official, the statesman, the legislator, to the leaders of society, as well as to everyone who is interested in the general welfare. And to the lawyer who prizes his profession, the study of

criminology is of special importance. It not only serves to broaden the sphere of his knowledge by throwing light upon the causes of human behavior, but it also lends him a powerful aid in the solution of judicial questions, specially those in penal law.

On this ocasion, I will speak only of the influence of hereditary tendencies on criminal acts and will suggest some means of preventing them.

The determination of the causes of crime is a question not completely settled, but the criminological investigations that have been carried out up to the present time furnish sufficient basis to sustain the fact that, while poverty and the lack of education are the causes of the majority of crimes, ennui and idleness, on the other hand, arouse in the rich classes vices more or less degrading. The statistics of our country show that of 46,034 persons accused of crime during the six years from 1904 to 1910, 10,181 were illiterate, while in the case of 28,016, the records do not show whether they had received any instruction. Examining Table No. 35 of the "Criminality in the Philippines" with reference to the population of the prisons of Bilibid, it will be seen that during the quinquennium from 1904 to 1908, the working class contributed the greatest number, with a total of 35,345, or an annual average of 7,069. The greatest number of prisoners confined, admitted and discharged, was recorded in the year 1905, when there were 2,896 in prison, 3,016 admitted and 3,807 released. In order of numerical importance, the cocheros come next, with a total of 4,008 during this period of five years; next come the agricultural laborers, servants, clerks, fishermen, carpenters, sailors, laundrymen, and merchants. Each of these groups of prisoners exceeded a total of 100 admitted into and released from prison more than once. The majority of these prisoners were convicted for misdemeanors and infractions of municipal ordinances, and the figures which appear in the table mentioned show clearly that there is more crime amongst the poor class than amongst the well-to-do. We find, moreover, that out of 4,396 prisoners confined in Bilibid in the preceding fiscal year, 1,246 were convicted of crimes against property, constituting a ratio of 28 to every 100 prisoners confined in Bilibid; and lastly, the average per year of persons sentenced by the justices of the peace and sent to the municipal prisons is 8,646 for violation of laws enacted by the Commission, and 4,646 for infraction of municipal ordinances. A careful study of these figures will reveal the relation which exists between crime, poverty, and ignorance.

The effect of heredity as a cause of crime is scarcely realized by the great majority of observers, who ordinarily believe that all depends upon the environment which surrounds the individual. But atavism, or the tendency to revert to the "primitive type," has come to be generally recognized by criminologists, and its existence appears to be proved by historical and anthropological data. Lombroso, in fact, in his work entitled "The Delinquent Man," attributes to it a pre-eminent place in the investigation into the causes of crime. There are many proofs, says Judge Foster in his "Hereditary Criminality and its Cure," which show to how great

an extent the well-being of the child depends upon the physical and mental health of the parents, and which establish the fact that the fate of the child may depend upon some physical weakness or emotional sensations at the time of conception. Let us take the famous case of Jesse Pomeroy, who, during his childhood, committed several murders of young children with a brutality truly savage, for which he was imprisoned for life in the state prison of Massachusetts. It was the general belief that the sanguinary impulses of the child were the direct result of influences contracted prior to his birth; it is said that the mother had conceived in the vicinity of the slaughter-house where her husband was a butcher, and so the sight of so much blood had its effect upo the character of the child.

The act of generation is the most lofty of all the human functions, and carries with it consequences which need no demonstration. It suffices to say, then, that every physical weakness, every new disease in the man or in the woman, may create an additional impediment in the offspring within the maternal womb, or perhaps even cause the destruction of a life or of a succession of lives. Statistics as well as the studies of genealogy of criminals made by learned authors, such as Aubry, Griffiths, Lombroso, Poellman, and Dr. Stocker, seem to prove that the great majority of the parents of criminals were given to evil, if not criminal, habits.

Statistics, moreover, seem to prove that Great Britain, compared with the other countries of Europe and with the rest of the world, is relatively free from crimes, and this comparative immunity according to the explanation of learned foreigners, is due to the frequency with which executions were formerly made and to the summary deportation from Europe of all those convicted of serious crimes, whereby not only were the criminal classes eliminated, but also the convicts were prevented from producing more criminals in their native land. It will be remembered that in the eighteenth century, according to the laws of England, there were more than 150 crimes of different classes which were punishable with the penalty of death. Criminologists, carrying their investigations further, have discovered that in New South Wales, Tasmania, and Western Australia, where Great Britain transported their criminals, more crimes are committed than in any other part of Australia.

Now then, starting from the assumption that poverty and vices, the lack of education, and hereditary tendencies are efficient causes of crime, what is important to determine is whether some antidote can be discovered against such pernicious causes.

For many years it has been repeated over and over that as long as there are men there will be crimes, and that it is impossible to put an end to them. The classical school attributes the cause of this phenomenon to the very imperfection of the freedom of man, which enables him to perform acts either virtuous or criminal, according to his free will; while the positivist school makes it depend upon the law of criminal saturation, by virtue of which there is in every social body a minimum

of natural atavistic criminality, due to anthropological factors. Without disregarding the scientific value of such doctrines, we believe that the explanation of this phenomenon can be found in the biological law of transformation, in accordance with which social organisms, like those of the animals, are susceptible only of partial and gradual transformations. As a result of this law the different social strata are not transformed to the same extent and in an equal degree, in spite of the great progress of civilization; and consequently there cannot exist, not even within the geographical limits of a political entity, the same grade of culture, the same loftiness of purpose, the same nobility of sentiments, or the same degree of moral sensibility. There will always be passionate impulses which generate the spirit of crime, and lead to the birth of hatred, desires for vengeance, violent deeds, deceit, in a word, base emotions, which are the cause of the infractions of the penal laws enacted by the government for the protection of the community. And this is the reason why crime is always associated with every human organization.

It must be admitted, however, that if crime as one of the effects inherent in human societies can not be obliterated, its commission can at least be restricted. Medical science has progressed in such a way that its apostles, the hygienists, now assert that diseases are nothing but the result of infractions of the rules of hygiene, and they confidently expect that the day men learn to observe these rules properly, many of the ills which today afflict suffering humanity will be done away with. What reason is there not to say the same with respect to the social disease, called crime? If hygiene is the best of physicians, the prevention of crime, rather than its control, contributes to the decrease of criminality.

Ferri, amongst others, points out various methods, which he calls penal substitutes or equivalents. He lays stress upon the importance of education as a means of preventing crime, especially when it is accompanied with the lessons of experience and the example which all social classes receive from their leaders, whether in school or in the home, whether in the press or in the professorial chair, in the theater or at public entertainments.

We shall concern ourselves now solely with the educative method. We must acknowledge, to begin with, that education alone will not be able to rid us completely of crimes, for there are some crimes, as for instance forgery, that can be committed only by educated persons. But setting aside the "instinctive criminals," who have a natural tendency toward crime, whom many authors call congenital criminals or criminals from birth, and who are filled with a malignity which saturates them with a propensity to crime, it is certain that education ennobles the sentiments and alters the character of the individual, and by giving him the knowledge through experience of what ought to be done and of what ought not to be done, forms in his spirit an internal restraint which checks the outburst of evil passions, thus contributing to the decrease of crime.

Let us consider the case of our own country. It is said, for example, "that at the time of the conquest there were here many excesses and crimes, and that disorder and vice, ignorance and deceit, usury and slavery reigned amongst the natives." Although the estimate of the first historians of the Philippines on this point may be open to discussion—and probably it will be discussed as the fields of historical investigation in our country is extended—it seems, nevertheless, that this was the general belief amongst those writers. But, laying aside unreasonable prejudices, the most superficial observer will note how great is the transformation that has taken place in Philippine culture from the time of the conquest to the close of Spanish sovereignty in these Islands.

It is not necessary to determine now the various factors which have contributed to this result; it will suffice for our purpose to say that the civilization of the Philippine people, as the Spaniards left it, is due in large extent to the educational measures which, inspired by Christian morality and applied here to a people eager for progress, have repressed the ancient manifestations of criminal activity to such an extent that General Sanger, when he took the census of the Philippines in 1903, could with justice say that the Filipinos, as a race, have no inclination to crime.

The influence of the educational method as a means of preventing crime finds support also in the opinion of various writers. Dorado, in his "Estudios de Derecho Penal Preventivo," speaking of the importance of prevention, cites Lardizabal, called the Beccaria of Spain, who says: "In order to avoid idleness and beggary, which are the most fruitful sources of crimes and disorders, it is necessary to provide a good education for the people." "How much better and more convenient it would be," he adds, "to prevent these evils with gentleness by means of education, than to be forced to have recourse to the rigor of laws to correct them!"

Gutierrez, quoted by the same Dorado, likewise considers the prevention of crime of great importance, and believes that the encouragement of public instruction and the education of the spirit of the citizens, by inculcating in them the true notions of right and wrong, are the surest means to bring about the decrease of common crimes.

Recently, however, Nicéforo, in his work, "La Transformación del Delito," has maintained that crime does not disappear but that it is transformed, and the fundamental basis of this theory rests upon the latent criminality which, according to him, exists in all men. But the same author says that education forms the most recent stratification of character, the modern stratification which organizes and strengthens; creating and developing, moreover, the *inhibitory* restraints which prevent the manifestations of the lower strata of the animal, savage, and barbaric character. So it is seen that the actual criminality as well as the latent criminality is susceptible of diminution by the educative method.

There are, furthermore, criminologists who maintain the theory that instruction does not have the effect of decreasing criminality or causing crime to lessen,

and it has ever been said by Carpena, in his "Antropologia Criminal," that in proportion as civilization increases criminality increases, even though the means of combating it abound. This difference of opinion arises from confusion as to what is meant by instruction and education. Laurent says: "It is very certain that higher instruction uplifts the soul, ennobles the heart, and teaches one to render homage to the beautiful and the true. But, in spite of all, it will be insufficient if it does not have education as a faithful ally." And Lombroso expresses himself in similar terms: "Knowledge which does not make the individual more moral, converts him into a criminal more refined, more shrewd, and more dangerous."

"We should not expect," says McDonald in his "Abnormal Man," "a great decrease in the number of crimes until the children receive moral and social education in the home or in institutions which resemble the home. But much still remains to be done even after the child has obtained this good start. From this point the preventive method consists in moral, intellectual, and physical instruction, which is education in its true meaning."

Certainly, education comprises three guiding forces: the physical, the intellectual, and the moral. While physical guidance invigorates the body, and intellectual guidance enlightens the understanding, moral guidance purifies the habits and ennobles the sentiments, glorifies the civic virtues and destroys the social vices, thus making less possible the commission of crimes. A moral man has no inclination to crime.

It is necessary, then, to extend the benefits of education to each and every one of the citizens; that education which instils in the youth and in all the social classes the realization of the sanctity of work, love for our fellow-men, respect for the property and rights of others, obedience to the law, respect for authority, the faithful performance of duty, self-denial in suffering, and moderation and prudence in our acts.

It is necessary to instil in the children the doctrine that work is the source of all well-being; and that man should devote himself to it from childhood; and that ignorance, aided by vice, is the principal cause of misery.

An affectionate treatment of children will teach them to treat their companions kindly. The sentiment of benevolence, as expressed by Garófalo, has many degrees of development; the pity which prevents acts whereby physical pain is inflicted; the pity which prevents those that may cause a moral pain; the pity which impels us to assuage the pain which we witness; and the *benevolence, generosity,* and *philanthropy,* which make us want to not only alleviate present pain, but also to ward off future pain, and to make less unhappy the lot of the unfortunate. The first two manifestations, which consist in abstention from certain acts that are prejudicial to others are expressed usually in this formula: "Do not do to another what you do not wish to be done unto you." And the last two, in this other formula: "Do good whenever you can." Benevolence as manifested in pity in its two negative

forms naturally tends to prevent the perpetration of many crimes, which are committed just because of neglect of the first maxim above stated. It is necessary, then, to cultivate carefully this noble sentiment in the hearts of the children.

Even though the idea of justice, observes the author previously quoted, is very well developed in children or in persons in the common mass of people, it is seldom that these persons act in conformity with it when their personal interest is concerned. The child and the savage know very well how to distinguish between what belongs to them and what does not; but they try to take possession of all that is placed within their reach. This proves that they lack not the conception of justice but the *feeling*. The important thing, therefore, is to awaken this feeling in the children, so that when they grow up to manhood, they may make it a rule of conduct not to possess themselves of that which belongs to another, against the will of its owner.

Side by side with the feeling of justice, should be cultivated with special care the feeling of shame, because, besides being highly preventive of crime, it is the foundation of lofty civic virtues. It is a common observation that when a child commits some fault, we try to make him feel ashamed of having done such a thing, as if we would appeal to his honor, a fact which proves that there exists among us the general belief that shame is a human instinct handed down by heredity from generation to generation. But examples are not lacking of persons, who, through defect of education or environment, have their sense of shame dulled. Most parents have recourse too frequently to corporal punishment or to the use of harsh words, in order to correct their children, being doubtless unaware that by such conduct, instead of teaching them, they only harden their character, and, what is worse, make them gradually lose the sense of shame. The result of this manner of treating children may be seen in the observations of anthropologists, which reveal the fact that the absence of the sense of shame is one of the characteristics which great criminals display.

Respect for authority, as representative of the law, is a quality necessary for the maintenance of the social order, and it is a fact amply proved that without order there can be no well-being for the community.

The fulfillment of duty furthers the development of the sense of dignity, which constitutes honor in its highest sense. There are men who have the habit of leaving "vales" or "chits" in the stores, but get angry when the bill is presented to them; there are others who pretend to be rich when they borrow money, but who always find that they are poor when the time comes to return it, especially when it has been used for things which have produced nothing beneficial. These examples, and others which might be mentioned, prove that those who fall short of their obligations are numerous, so that, as Ward says, praise is due to him who constantly fulfils his duty. The law itself, by requiring that certain contracts be recorded in a private document or in a public instrument, is a clear manifestation of the necessity of rousing men to the fulfillment of their respective duties, in order to avoid lawsuits, crimes, and other disturbances in the different orders of life.

Self-denial, in the midst of troubles, not only drives away the feeling of despair which leads to suicide, but is the basis of the most heroic actions. A self-denying man is capable of performing the most noble deeds. Moderation and prudence in our acts are virtues which fit men to act commendably in all the situations of life. As Angiolini says, he who conducts himself in society with tact, acumen, and prudence, will be able to ward off the dangers arising from the man of evil purpose, by avoiding every cause that might give rise to hatred, vengeance or the unbridling of passions, as well as by taking diligent care of his own things.

In the opinion of some writers, the fact that the schools and educational institutions can not check the progress of crime, is due to their defective organization. Although it would be unfair to attribute the whole cause to the imperfection of the schools, it should be realized, nevertheless, that a part of the responsibility rests upon the shoulders of the educators of youth. In order to meet this responsibility, it is necessary to promote moral education. But it should be borne in mind that the whole success of the moral education of the individual lies in the example, in the personal character of the educator, and, consequently, the teacher should be an unexceptional model of morality.

The indirect system extolled by Pestalozzi is the one that is most advocated for this kind of instruction.

It will not be necessary to repeat to the children the rules of law which define punishable acts; it will suffice to make them understand the direful consequences which are suffered by those who possess themselves of that which belongs to another against the will of the owner, by those who defraud others by those, who injure or libel their neighbor, by those who sin against chastity, by those who attempt a crime against the welfare or the life of their fellowmen and by those who disturb the public order. This procedure, followed by the practice of the civic virtues of which we have already spoken, will inevitably make the children understand that it is wicked to steal, to deceive, to defraud, to seduce, to injure, to make an attempt against the life and health of one's neighbor, or against peace and public order. The ideas thus acquired in the home or in the school will serve the child as a rule of conduct in society.

Thus is defined the lofty function of the educators of youth, whether they are parents, teachers, professors, or directors of educational or charitable institutions. Their field of action is broad and fertile, and there is no doubt that every seed which is placed in the furrow will bring forth an abundant harvest of well-being for society. A day will arrive when the good emotions will prevail over the evil ones, and then there will be fewer pretexts for crime, and the influence of the good qualities transmitted by heredity from educated parents will bring about, as an inevitable result, a social state which shall be both prosperous and happy.