

## **Criminology and Modernization in Romania during the Second Half of the Nineteenth Century**

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**Abstract:** This article deals with the relation between the birth of criminology in late 19<sup>th</sup> century Romania and modernization. Scientific modernization also manifested itself through the adoption of laws, theories and methods from Western Europe that inspired various criminological discourses. However, this modernization was incomplete and stereotypes such as the gentleness of the Romanians had pervaded some of the criminological studies. Most Romanian authors interpreted crime as a socially determined phenomenon, rejecting the biological theories of crime. Towards the end of the 19<sup>th</sup> century, more and more authors tried to apply western criminological theories to phenomena and criminal cases from the Romanian society.

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*The beginnings* of modern Romanian criminology can be located in the second half of the nineteenth century. We use the term “criminology” with an “open”<sup>1</sup> meaning to refer to any researches examining criminals, crime, and its causes. During the 19<sup>th</sup> century, the writings that addressed issues related to criminology are rather heterogeneous. Individuals from several professional groups wrote about crime: magistrates, police officers, statisticians, priests, doctors, biologists, phrenologists, psychiatrists or anthropologists.<sup>2</sup> This disciplinary hybridity of criminology is one of its greatest strengths.<sup>3</sup>

Criminological theories originated from many disciplines – criminal law, psychiatry, forensic medicine, biology or anthropometry to name only a few. Criminal law defined crimes, criminals and the punishments that were necessary. Psychiatry, forensic medicine and anthropometry analyzed criminals, explained crime and guided the application of criminal law. We could assume that the functioning of this mechanism was governed by a feedback-like process. Taking into account the links between these areas, we advocate for the need to study the history of criminology from a global

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<sup>1</sup> Peter Becker, “Criminological Language and Prose from the Late Eighteenth to the Early Twentieth Centuries”, in *Crime and Culture: An Historical Perspective*, ed. Amy Gilman Srebnick, René Lévy (Aldershot: Ashgate, 2005), 23-30, 24.

<sup>2</sup> *Ibid.*, 27.

<sup>3</sup> Eamonn Carrabine et al., *Criminology. A Sociological Introduction*, Second edition (London: Routledge, 2009), 4.

perspective that includes theories from criminal law, psychiatry, forensic medicine or anthropometry.

Criminology has many meanings and interpretations, especially nowadays, but the most commonly accepted view is that it deals with the study of crime, criminals and criminal justice.<sup>1</sup> The word “criminology” is relatively new but criminological researches are not. According to some, they can be traced back as far as 250 years ago.<sup>2</sup> Ellis Havelock attributed the word “criminology” to the French Paul Topinard (1830-1911), dating it to 1889, but in fact Raffaele Garofalo (1851-1934) had used it as the title of his major work from 1885<sup>3</sup>. Cesare Lombroso’s criminal anthropology of the 1870’s is considered the birth of modern scientific criminology. Despite the intense criticism, his work led to international congresses and debates about criminology during the last decades of the nineteenth century.

Starting from the second half of the nineteenth century, we can identify quite a few criminological approaches. This was the age when criminology set its own boundaries and it delimited itself from other scientific disciplines. Its relations with other fields of study such as criminal law, forensic medicine, psychiatry or anthropometry were analyzed.<sup>4</sup> This was more the case for Western Europe. However, during the latter half of the century, criminology, psychiatry, anthropometry or forensic medicine became increasingly appealing for Romanian authors too. From this perspective, we can accept the idea of synchronization with Western Europe. In fact, many studies published in Romania, were just popularizing scientific theories from Western Europe. Of course, the popularization of sciences also occurred in Western Europe, reaching a peak during 1865-1890.<sup>5</sup> The influence of Western European theories in Romania is one of the key issues we seek to unravel in order to understand the conditions that have marked the evolution of Romanian criminology during this age.

The Romanian society had its own legal traditions, which should have led to an adaptation of new theories to the local context. This was not always the case; some magistrates regarded the Criminal Code of 1865 as an imitation of other countries’ criminal codes. Furthermore, state institutions that enforced criminal laws were not very efficient and this affected crime control. Still, during the second part of the nineteenth century, many changes occurred within the Romanian society. As an example, upon the annexation of Dobruja in 1878, after the Russo-Turkish War of 1877-1878 and the Treaty of Berlin (1878), which recognized Romania’s independence, the region had a

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<sup>1</sup> Ibid., 3.

<sup>2</sup> Ibid., 4.

<sup>3</sup> David Garland, “British Criminology before 1935”, *The British Journal of Criminology* 28 (1988): 131-147, 136. The controversy continues even nowadays. Some authors consider that Paul Topinard first used the word “criminology” in 1879, whereas others have named Raffaele Garofalo as its inventor.

<sup>4</sup> George Basiliade, *Criminologie comprehensivă* (Comprehensive Criminology) (Bucharest: Editura Expert, 2006), 191.

<sup>5</sup> Simona Antonescu, *Literatura de popularizare a științei în a doua jumătate a secolului al XIX-lea și începutul secolului XX în România* (Science Popularization Literature in Romania during the Second Half of the Nineteenth Century and the Start of the Twentieth Century) (Bucharest: Ars Docendi, 2007), 16.

very high crime rate.<sup>1</sup> Gradually, the State, through its institutions, managed to control the territory somewhat better despite frequent acts of banditry until the 1890s.

Taking into consideration Peter Becker and Richard F. Wetzell's approach from *Criminals and their scientists. The history of criminology in international perspective*<sup>2</sup> (2006), we will emphasize the diversity of discourses that dealt with criminals or crime in nineteenth century Romania. The State institutions that controlled and punished crime – the Police, the Prison, the Law Court, were important, but their influence upon the society or upon criminology, was shaped by the people who represented them.

## Modernization

Most studies that address topics related to Romanian nineteenth century history use the term “modernization” when explaining the developments that occurred within that period. Anthony Giddens<sup>3</sup> defined modernization as the emergence of certain ways of organizing the society in Western Europe since the 18<sup>th</sup> century and their gradual expansion to other areas. At least in its initial phase, modernization manifested itself as westernization. Still, Ronald Inglehart pointed out that modernization was not just a western process but also a global one. It could be stated that nowadays, it is Eastern Asia and not Western Europe that promotes modernization.<sup>4</sup>

We have mentioned the growing influence of Western European theories in criminal law, forensic medicine or psychiatry. This influence had an impact upon the whole Romanian society, as it was widespread. Its first signs have been identified during the reigns of the Fanariot rulers of the principalities that later formed Romania in the 19<sup>th</sup> century – Moldavia and Walachia, during the 18<sup>th</sup> century and continued after the 1820s. However, the contact with Western European ideas and mentalities was mainly indirect, at least in the earlier stages, mainly through the Russian officers stationed in the two Romanian Principalities. We could accept the concept of “acculturation”<sup>5</sup> in this situation. Essentially, the nature of the phenomenon is unidirectional. The cultural transfer was achieved from the centre to a marginal space, from Western Europe to

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<sup>1</sup> Nicolae Negulescu, “Administrația în Dobrogea veche” (The Administration in Old Dobruja), in *Dobrogea 1878-1928. Cincizeci de ani de viață românească* (Bucharest: Cultura Națională, 1928), 719-734, 720.

<sup>2</sup> Peter Becker, Richard F. Wetzell, *Criminals and their scientists. The history of criminology in international perspective* (Cambridge: Cambridge University Press, 2006).

<sup>3</sup> Anthony Giddens, *The Consequences of Modernity* (Stanford: Stanford University Press, 1990), 1.

<sup>4</sup> Ronald Inglehart, *Modernization and Postmodernization. Cultural, Economic, and Political Change in 43 Societies* (Princeton: Princeton University Press, 1997), 11.

<sup>5</sup> In 1936 R. Redfield, R. Linton and M. J. Herskovits defined acculturation as all the changes in the cultural patterns originating when groups of individuals with different cultures came in contact. According to the authors, there are exchanges and reinterpretations between two cultures. However, no culture imposes itself totally upon another one despite their unequal contribution. In 1970, R. Bastide differentiated between material and formal acculturation. The first takes place when populations adopt models of the dominant culture in public life and the second when their thinking structures change as well. See Phillipe Besnard and Raymond Boudon, *Dicționar de Sociologie* (Dictionary of Sociology), trans. Mariana Tutuianu, (Bucharest: Univers Enciclopedic, 1996), 12-13.

Romania. A legislative reformation had started during the Fanariots, but the 1859 Unification of Moldavia and Walachia imposed the need for a new Penal Code. These cultural contacts between Western Europe and the Romanian space increased during the second half of the century and ultimately contributed to the emergence of modern criminal law studies.

An important, if not decisive, part in the evolution of Romanian criminology and other disciplines such as judicial psychiatry, forensic medicine or anthropometry is that of the relation with the Western researches in these fields of knowledge. Clearly, they influenced jurists and doctors from Romania. Some had studied in universities from Western and Central Europe.<sup>1</sup> There is still the issue of determining how these theories were adopted in Romania. On one hand, some authors tried to verify the validity of various ideas or, at least, to adapt them to the Romanian society. On the other, many were only popularizing Western theories without trying to bring any innovative elements. Horia Roman Patapieviçi interpreted the scientific modernization from Eastern Europe in the eighteenth and nineteenth centuries using a metaphor –“throwing away”.<sup>2</sup> If in Western Europe the scientific modernization was based on challenging the scientific tradition, on discussing new theories and ultimately integrating them in the tradition, in Eastern Europe new theories were adopted for sociological or political reasons<sup>3</sup>, without a critical discussion and the old theories were abandoned, considered “trash”. Thus, according to Patapieviçi, the scientific modernization in the West was achieved through “grafting”, whereas in the East, through “throwing away”.

For the last decades of the 19<sup>th</sup> century, we need to reassess Patapieviçi’s model of interpretation. If during the period 1850-1890, many authors used to take over Western theories uncritically, towards the end of the century more and more authors were trying to adapt those theories to the local conditions. In other words, modernization could be perceived first as a “throwing away” and then more as a “grafting”. This was not a complete “grafting” but nor can we admit that the modernization of 1850-1890 was achieved only by “throwing away”. There is more of a trend towards modernization through “grafting” at the end of the century than it had been in 1850’s-1890’s period<sup>4</sup>.

### The Criminal Code of 1865

The application of laws varies, depending on a certain degree of flexibility. In theory, the eighteenth century Criminal Law from Great Britain seemed harsh and rigid – *The Bloody Code*. The capital punishment was instituted for over 200 offences. However, as

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<sup>1</sup> See Elena Siupiur, “The Training of Intellectuals in South-East Europe during the 19<sup>th</sup> Century”, *Anuarul Institutului de Istorie și Arheologie A.D. Xenopol*, XXIII (1986): 469-490.

<sup>2</sup> Horia Roman Patapieviçi, *Discernământul modernizării. 7 conferințe despre situația de fapt* (The Discernment of Modernization. 7 Conferences About the State of Affairs), (Bucharest: Humanitas, 2004), 89.

<sup>3</sup> *Ibid.*, 92.

<sup>4</sup> Cătălin Turliuc emphasized the differences between modernization and westernization in Romania during the 19<sup>th</sup> century. In his view, only from the end of the century we could accept the idea of a modernization. Up until that point, there was actually a westernization. See Cătălin Turliuc, “Modernization and/or Westernization in Romania during the Late 19<sup>th</sup> Century and the Early 20<sup>th</sup> Century”, *Transylvanian Review* 1 (2008): 3-11.

Peter King showed, in practice, the system was flexible and selective. Any discussion about the criminological discourses within the Romanian society should be preceded by one regarding the Romanian Penal Code. Until 1865, Moldavia and Walachia had different criminal law systems. The Criminal Law adopted in 1865 represented, in effect, a legislative unification of the two Principalities, although the previous criminal laws applied in Moldavia and Walachia had many similarities. Both stipulated beating and the death penalty as punishments.<sup>1</sup> A commission drew up the Criminal Law and the Code for Criminal Procedure in 1864. They were inspired by the French, Belgian, German and Austrian criminal law systems but also by the Criminal Law of 1826 from Moldavia and the Știrbey Criminal Law of 1852 from Walachia.<sup>2</sup>

The enforcement of the criminal laws was often a long way from what the Criminal Code actually stipulated for certain felonies or offences. The introduction of the Jury, through the 1865 Criminal Law, affected the ways in which criminal laws were implemented. The activity of the Jury was criticized on several occasions. Some considered this institution a mere imitation of Western criminal laws. Largely, this was true. Shortly after 1865, G. S. Petrini edited a manual for the jurymen. It had many advices for future members of a Jury and offered guidelines concerning the reactions of the accused or of witnesses so that the jurymen would not be easily impressed<sup>3</sup>. Apparently, such manuals did not achieve their goals. Almost 30 years later, the prosecutor Mihail Șuțu was demanding the suppression of this institution, at least for criminal law cases as it represented “a threat to the society”<sup>4</sup>. The criminal statistics he had analyzed showed that in Iassy, during 1880-1893, there had been 1,170 acquittals and 1,436 convictions<sup>5</sup>. Towards the end of the century, Mihail Sfîntescu discussed the same issue. The audience that was attending the trials often manifested their sympathy or antipathy towards the accused and witnesses and the jurymen could not ignore their attitudes<sup>6</sup>.

Despite some shortcomings of the Penal Code, the abolition of punishments such as beating or the death penalty is an improvement in legislation. However, these were thought to be “forms without substance”, inappropriate for the situation in Romania. The death penalty had existed in criminal laws before 1865 but was rarely implemented. We can admit that the abolition of the death penalty *de jure* actually followed its abolition *de facto*. Still, in 1865, most European states applied the death penalty. Italy abolished it in 1890, The Netherlands in 1881, in Belgium, it was present

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<sup>1</sup> Petre Ionescu-Muscel, *Istoria Dreptului Penal Român* (The History of the Romanian Criminal Law) (Bucharest: Editura „Revista Positivă Penală și Penitenciară”, 1931), 140.

<sup>2</sup> Ibid., 148.

<sup>3</sup> G.S. Petrini, *Manualul Juraților* (The Juror’s Manual) (Iassy: Imprimeria Buciumului Român, 1867), 172-177. This is an adaptation of the ideas of some French authors like Faustin-Hélie, Dubochet sau Guichard.

<sup>4</sup> Mihail Șuțu, *Câteva cuvinte asupra instituției juriului* (A Few Words on the Institution of Jury) (Iași: Tipo-Litografia H. Goldner, 1895), 29.

<sup>5</sup> Ibid., 3-4.

<sup>6</sup> Mihail Sfîntescu, *Juriul în materie criminală* (The Jury in Criminal Cases) (București (Bucharest): Tipografia „Vocea Încețătorilor”, 1899), 36.

in 1863 but always commuted, Portugal and some Swiss cantons had also abolished it<sup>1</sup>. Other European states would only abolish it in the twentieth century. The idea of reducing penalties and adjusting them to the seriousness of the offences appeared since Cesare Beccaria. He had been among the first to advocate the abolition of capital punishment but very few European states did renounce it in the nineteenth century.

After 1865, some urged for the reintroduction of the death penalty in Romania. They were always a minority though because such proposals never gathered much support. Probably the best-known supporter for this proposal was Ioan Tanoviceanu (1858-1917). He had analyzed the criminal statistics for 1867-1886 and noticed an increase in crime rates. According to Tanoviceanu, the abolition of the death penalty in 1865<sup>2</sup> was, at least partly, the reason for this crime wave. In his memoirs<sup>3</sup>, Prince Nicolae Șuțu (1798-1871) criticized the introduction of modern institutions of government in the Principalities. This criticism aimed at the suppression of the death penalty<sup>4</sup>, “without a transitional phase, without prior discussions”. Undoubtedly, it is a conservative attitude but it also emphasized the haste that characterized the ratification of the 1865 Criminal Law. Vasile Conta’s (1845-1882) position is somewhat different. He believed the death penalty should not be abolished if it was proven that the fear of a lighter punishment was not strong enough to stop the less educated people from committing the most heinous offences<sup>5</sup>. Even torture would be required when the death penalty proved ineffective. He agreed with the death penalty in Romania but only for foreigners who had committed terrible crimes because “the Romanians have gentler manners compared to foreigners”<sup>6</sup>. Beyond these xenophobic connotations, the idea that the gentle manners of Romanians could prevent the application of the capital punishment stands out. Actually, the stereotype of the gentle Romanians is a recurring theme for several nineteenth and twentieth century authors.

### **Legal studies**

We briefly discussed about the Penal Code but for a better understanding of the Romanian penal system one should also take into consideration some of its most influential representatives. The functioning of this system was examined in various studies. However, these studies did not display a methodological unity. Petre Ionescu-Muscel, a scholar who wrote about the history of the Romanian Criminal Law, considered that until the latter half of the nineteenth century we cannot identify any

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<sup>1</sup> Roy Calvert, *Capital Punishment in the Twentieth Century* (London: G. P. Putnam’s Sons, 1928), 51-75.

<sup>2</sup> Ioan Tanoviceanu, *România sub raport moral* (Romania from a Moral Perspective) (Bucharest: Tipografia Arte Grafice, 1902), 18.

<sup>3</sup> Nicolae Șuțu, *Memoriile Principelui Nicolae Șuțu* (The Memoires of Prince Nicholas Soutzo), trans., introduction, notes and comments Georgeta Penelea Filitti, (Bucharest: Editura Fundației culturale Române, 1997).

<sup>4</sup> He also quoted the French author Adolphe Karr: “the death penalty should be abolished; I wish it with all my heart, only that the assassins should be the first who cease to apply it”. *Ibid.*, 361.

<sup>5</sup> Vasile Conta, “Teoria fatalismului” (The Theory of Fatalism), in *Opere complete, filozofic* Conta, ed. Octav Minar (Bucharest: Editura C. Sfetea, 1914).

<sup>6</sup> *Ibid.*, 191.

thorough studies published by Romanian jurists<sup>1</sup>. Furthermore, starting with the eighteenth century, according to Ionescu-Muscel, the influence of Western European authors is undeniable<sup>2</sup>. Despite this influence, more and more jurists started to examine issues specific to the Romanian society. We discover in the writings of Romanian jurists criminological discourses that dealt with the legal responsibility of the insane murderers, the connection between crime rates and alcohol, juvenile delinquency, female criminality or the imprisonment and rehabilitation of offenders.

Ion I. Condeescu examined the Criminal Law of 1865, providing comments regarding most of its 400 articles<sup>3</sup>. Condeescu concentrated on the issue of mitigating circumstances. Article 57 of the Criminal Code laid down the matter: “it does not count as felony or offence any misdemeanour committed in a state of insanity or loss of reason beyond control”<sup>4</sup>. Besides the insane, who could not be liable in Court and whom the Criminal Code named “*smintiți*” (“insane”), Condeescu also debated cases of psychiatric conditions like idiocy or monomania and suggested that they should benefit from a similar treatment. He differentiated between involuntary and total intoxication on one hand and partial and voluntary intoxication on the other. The issue of lack of responsibility would be of paramount interest to Romanian jurists on several occasions. In 1903, a soldier from Craiova with an ill-fated name – Gheorghe Ispășoiu<sup>5</sup>, killed two comrades but the military judges did not allow a forensic expertise to determine if the perpetrator had any mitigating circumstances.

Article 57 of the Romanian Penal Code of 1865 was inspired by article 64 of the Napoleonic Code of 1810 but the idea of impunity for the mentally ill can be found in *The Correction of Law*, a code elaborated in 1652, under Matei Basarab (1632-1654). The mentally ill was compared with the deaf or the dumb and, unlike in Western Europe, the seriousness of the offence did not exclude the right to impunity<sup>6</sup>. Since Antiquity, people thought of mental illness as a divine punishment and, in order to avoid a “competition” with this type of punishment, the mentally ill would be granted impunity. The Știrbey Criminal Code had also referred to mental illness in article 52 using the expression “insane mind”, which was then taken by article 57 of the Penal Code of 1865<sup>7</sup>. In the nineteenth century, the legal status of the mentally ill became a central issue for more and more authors. They “discovered” different psychiatric conditions – monomanias and degenerescences<sup>8</sup>. In Romania too, monomania and

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<sup>1</sup> Ionescu-Muscel, *Istoria Dreptului*, 154.

<sup>2</sup> Ibid.

<sup>3</sup> Ion I. Condeescu, *Codice Penal Român-adnotat și explicat* (The Romanian Criminal Law annotated and explained) (Bucharest: Tipografia Ștefan Mihăilescu, 1883).

<sup>4</sup> Ibid., 42-43.

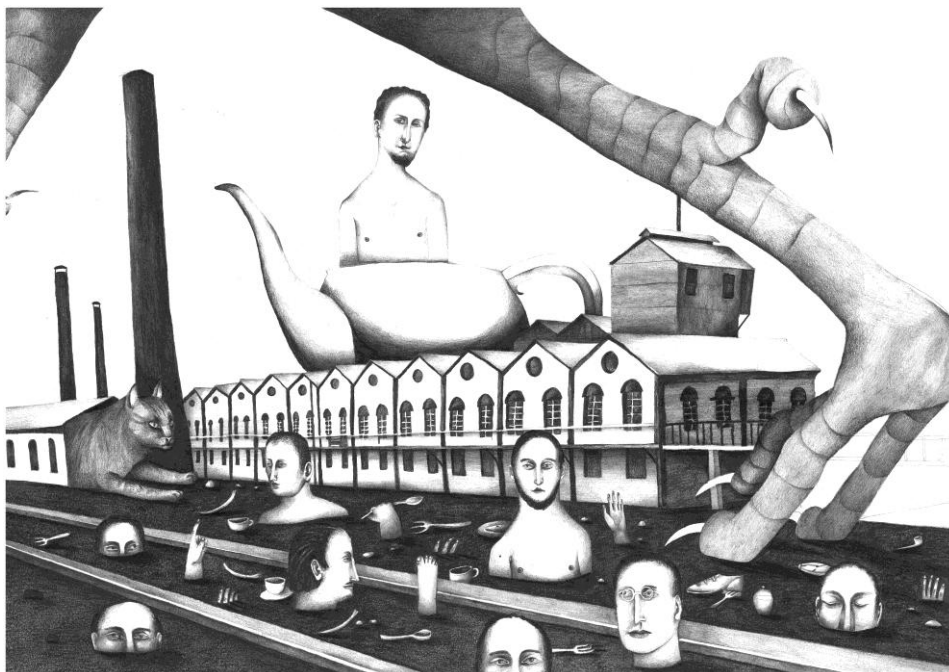
<sup>5</sup> His last name, “Ispășoiu”, means to serve time for a certain offence or, from a religious perspective, to repent, through suffering, for one’s sins.

<sup>6</sup> Florian Galdău, *Statutul juridic al bolnavului psihic în secolul XIX cu relevarea influenței asupra teoriei și practicii psihiatrico-legale* (The Legal Status of the Mentally Ill during the 19th Century and Its Influence on the Theory and Practice of Forensic Psychiatry) (Timișoara: Institutul de Medicină, 1982), 4.

<sup>7</sup> Ibid., 18.

<sup>8</sup> Daniel Pick, *Faces of Degeneration* (Cambridge: Cambridge University Press, 1989), 7-8.

degenerescence were notions used when debating cases of mitigating circumstances for offenders.



**Aleksandra Chaushova, *The Sugar Factory*, 2011,**  
pencil on paper, 46,4 x 32,6 cm

Some Romanian authors wrote about the issue of liability. There were quite a few criminal trials that required the application of article 57 of the Penal Code and all the aspects of legal impunity needed to be clarified. Nevertheless, many studies<sup>1</sup> just popularized Western European theories on monomania and degeneration. This was also essential, especially because it is unlikely that most jurymen did truly understand notions such as degeneration. One of the first thorough studies<sup>2</sup> that approached this topic is that of Alexandru Șuțu (1837-1919), professor of psychiatry. The author extensively analyzed the liability of the insane, defining the different intermediary stages. He pinpointed the unavoidable difficulties of determining whether the offender had been in a state of alienation when the crime was committed or only after that<sup>3</sup>. Last but not the

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<sup>1</sup> Octavian Buda compiled some studies of forensic medicine and psychiatry in two of his books: *Criminalitatea: o istorie medico-legală românească* (Criminality: A History of the Romanian Forensic Medicine) (Pitești: Paralela 45, 2007) and *O antropologie a marginalului* (An Anthropology of the Imaginary) (Bucharest: Caligraf, 2008).

<sup>2</sup> Alexandru Șuțu, *Alienatul în fața societății și a științei* (The Mentally Ill face to face with Society and with Science) (București (Bucharest): Noua tipografie a laboratorilor români, 1877).

<sup>3</sup> *Ibid.*, 14-15.



least, he depicted cases of people who feigned insanity<sup>1</sup>, providing signs that could help investigators tell apart real cases of insanity from feigned ones. Still, other studies that popularized psychiatry<sup>2</sup> presented pseudoscientific theories from the realms of physiognomy or phrenology<sup>3</sup>. According to such theories, a murderer must have been a murder because he looked like a murderer, his physical features indicating the felony<sup>4</sup>. The various studies that popularized psychiatry are considered by Simona Antonescu nothing less than a porthole through which one could take a glimpse at another world, that of the insane.

Another author, Aurel Iorgulescu<sup>5</sup> mentioned different conditions considered clinical manifestations of alienation: dementia, hereditary madness, anger, monomania or toxic madness (alcoholism). He referred to a famous case of the age – Iulia Iarcu's murderer. In February 1901, Alexandru Candiano-Popescu killed Iulia Iarcu with the help of a friend. Candiano-Popescu, a high school student, sadistically confessed the murder. Constantin Bacalbaşa (1856-1935) thought of him as “an irresponsible degenerate”<sup>6</sup>. Eventually, the verdict of the commission described Candiano-Popescu's condition as follows: “the disappearance of any sense of ethics, society and family, incomplete knowledge of what is Good, Moral and Legal. Slave of his perverted instincts, he subdues to them without being hindered by anything”<sup>7</sup>.

At the dawn of the twentieth century, Romanian jurists tried to display an even more complex discourse in regards to crime rates, criminals or crime itself. Many analyzed or went further in attempting to apply Western criminological theories to the Romanian society. Such an author was Vespasian Erbiceanu (1863-1943), a judge from Iassy, who published a book on new trends in law<sup>8</sup>. He provided one of the most detailed presentations of the Italian school of criminology in the early twentieth century Romania. In over one hundred pages, he illustrated the theories of Cesare Lombroso, Raffaele Garofalo or Enrico Ferri but also some of their critics.<sup>9</sup> Moreover, Erbiceanu briefly discussed about the impact of these in Romania, mentioning the name of Ioan Tanoviceanu as a disciple and defender of such ideas and Mina Miovici as their

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<sup>1</sup> Ibid., 242-246.

<sup>2</sup> Antonescu, *Literatura de popularizare*, 75.

<sup>3</sup> Physiognomy and phrenology were used to explain crime, especially in the press or in the popular literature. One of the works that popularized physiognomy was that of T. Eustațiu-Ciocanelli, *Estractu de Fisiognomie* (A Fragment of Physiognomy) (Bucharest: Tipografia bisericească din Sfânta Mitropolie, 1855). In addition, Bogdan Petriceicu-Hașdeu examined Vlad Țepeș's face using element from both phrenology and physiognomy. See Bogdan Petriceicu-Hașdeu, “Portretul lui Vlad Țepeș-Vlad Vodă Dracul” ( The Portrait of Vlad Țepeș-Vlad Vodă Dracul) in *Din Moldova*, tome III, (1863): 62-64, 75-79, 95-96.

<sup>4</sup> Antonescu, *Literatura de popularizare*, 75.

<sup>5</sup> Aurel Iorgulescu, *Responsabilitatea penală în materie de crimă* (Criminal responsibility in felony cases) (București: Tipografia și Legătoria de cărți Thoma Basilescu, 1903), 10.

<sup>6</sup> Constantin Bacalbaşa, *Bucharesti de altădată* (Old-Time Bucharest), vol III, 1900-1910, (Bucharest : Editura ziarului “Universul”, 1927), 6.

<sup>7</sup> Aurel Iorgulescu, *Responsabilitatea penală*, 14.

<sup>8</sup> Vespasian Erbiceanu, *Tendențe noi în Drept. Studii de Drept Civil si Penal* (New Trends in Law. Studies in Criminal and Civil Law) (Iași: Tipografia Dacia, 1906).

<sup>9</sup> Ibid., 233-351.

opponent.<sup>1</sup> Another chapter dealt with the sociological theories on crime. According to the author, this new school of criminology had emerged as an alternative, a mid way between the Italian school of criminology and the Classical school of criminology.<sup>2</sup> Erbiceanu included among its most famous representatives Alexandre Lacassagne (1843-1924), Gabriel Tarde (1843-1904), Franz Liszt (1851-1919) or Adolphe Prins (1845-1919). He then put to use contemporary criminological theories in analyzing two infamous murder cases from Romania, that of Alexandru Candiano-Popescu (1903) and that of the soldier Ispășoiu (1901). For the Ispășoiu case, Erbiceanu applied Lombroso's theory of "hidden epilepsy".<sup>3</sup> Although he disagreed with some of the theories of the Italian school of criminology, he nevertheless used the idea of "hidden epilepsy"<sup>4</sup> in certain circumstances. However, his extended analysis of the Ispășoiu case and, most of all, the application of the theory of "hidden epilepsy" was a controversial issue. Iulian Teodorescu (1872-1935) criticized such an approach. Teodorescu believed that the soldier Ispășoiu had premeditated his action and should be held responsible<sup>5</sup>. Furthermore, he disagreed with the theory of "hidden epilepsy". According to him, only Cesare Lombroso and his followers advocated the connection between hidden epilepsy and crime. Therefore, it would have been difficult to examine the defendant since other scientists did not accept the theory.

The topic of juvenile delinquency also appeared in the studies of Romanian authors. The nineteenth century experienced a growing interest towards the phenomenon of juvenile delinquency. Many Western European states have passed laws aimed at the juvenile offenders. There was a fear that the youth were becoming increasingly attracted to criminal activities and this represented a danger not only to the *status quo* but also to the future of the Nation. The same jurist, Iulian Teodorescu, wrote about juvenile delinquency in Romania. He dealt with this topic from the perspective of criminal law but did not leave aside the alleged causes of the phenomenon. Teodorescu evoked a brief history of Romanian juvenile delinquency mentioning the most famous cases.<sup>6</sup> The judiciary statistics showed that in 1903, 7% of all the offenders were juvenile. Moreover, it seemed that juvenile delinquency had increased by 60% compared to previous years.

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<sup>1</sup> Ibid., 240.

<sup>2</sup> Ibid., 436.

<sup>3</sup> Ibid., 392-434.

<sup>4</sup> The link between "the born criminal" and "hidden epilepsy" was established by Lombroso during his examination of the soldier Misdea. In April 1884, Misdea, irritated by the insults of his comrades, began shooting them randomly. Lombroso took part at the trial and determined what had caused Misdea's behavior. In the fourth edition, of his famous *L'Uomo Delinquente*, published in 1889, the Italian criminologist claimed that Misdea's deed was caused by "hidden epilepsy". See Cesare Lombroso, *The Criminal Man*, ed. Mary Gibson and Nicole Hahn Rafter, (London: Duke University Press, 2006), for a comparative study of the first five editions of Cesare Lombroso's book and an account of the Misdea case.

<sup>5</sup> Iulian Teodorescu, *Chestiuni de Drept penal și știință penitenciară* (Criminal Law and Penal Science Issues) (Bucharest: Tipografia Gutenberg, 1904), 79.

<sup>6</sup> Idem, *Minoritatea în fața legii penale. Studiu statistic și de legislație comparată* (Minority and the Criminal Law. A Comparative Study of Legislation and Statistics) (Bucharest: Joseph Gobl, 1904), 10-11.

He dismissed the theories that emphasized hereditary or biological causes of juvenile delinquency. Teodorescu considered social causes as critical for the evolution of crime.<sup>1</sup>

Grigore Ioan Lahovari (1835-1905) also provided explanations for the behavior of criminals in one of his studies<sup>2</sup>. He categorized offenders based on their crimes into arsonists, authors of political murders and women who killed with poison. The cases he used to exemplify this categorization were taken from French, German or Austrian studies. Most likely, the theories that guided his explanations had the same origin as the cases themselves. Naming one chapter “*Otrăvitoarele*” (“Poisonous women”) is, by no means, an accident. In the 19<sup>th</sup> century, poisoning was regarded as women’s favourite method of killing and some statistics confirm a tendency of associating women with this felony. In France<sup>3</sup>, during 1825-1885, out of 2,169 cases of poisoning and 1,969 offenders, 1,053 were men and 916 women. Considering that, on average, women represented 20% of total offenders, it seemed obvious that they had an inclination towards using poison. Lahovari thoroughly explained the predisposition: “a woman is less brave, less of a man [*sic*], less strong and that’s why she commits this felony so easily and more frequently than others”<sup>4</sup>. He further analyzed the behaviour of poisonous woman drawing up a moral description. Thus, the poisonous woman is: “incapable of understanding or of experiencing those moral feelings that we call the sense of duty, of what is right, repentance, shame, and fear of being discovered or of being punished”<sup>5</sup>. In nineteenth century Europe, women were supposed to show obedience, chastity, innocence, compassion, to name just a few requirements and, because of these social expectations, we can understand why, a murderess was often regarded as much more dangerous than a murderer.

Towards the end of the century, more and more authors were turning to the study of issues characteristic to the Romanian society. We have discussed about the responsibility of the insane, juvenile delinquency or women and crime. However, Ioan Tanoviceanu (1858-1917) examined a phenomenon with far more complex repercussions, the apparent increase in crime rates during the latter half of the nineteenth century, which he considered truly frightening.<sup>6</sup> Tanoviceanu is widely regarded as one of those who laid the basis of criminology in Romania.<sup>7</sup> His studies dealt with a great variety of topics: crime rates, criminal law, prisons, the death penalty or duelling. In

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<sup>1</sup> Ibid., 118-119.

<sup>2</sup> Grigore Ioan Lahovari, *Despre Psychologia criminală* (On Criminal Psychology) (București (Bucharest): I. G.Haimann, 1888).

<sup>3</sup> Philippe Ariès, Georges Duby, *Histoire de la vie privée*, tome 4 De la Révolution à la Grande Guerre, (Paris: Seuil, 1985-1987), 274.

<sup>4</sup> Grigore Ioan Lahovari, *Despre Psychologia*, 39.

<sup>5</sup> Ibid., 68.

<sup>6</sup> Like many other authors, he stated that crime rates had increased throughout Europe during the latter half of the 19<sup>th</sup> century. In fact, crime rates were decreasing at that time in Europe; see Lynn MacDonald, “Theory and evidence of rising crime in the 19th century”, *The British Journal of Sociology* 33 (1982): 404-420, 414.

<sup>7</sup> In 1884 he got his PhD in Law in Paris, in 1890, he started teaching Penal Law at Faculty of Law in Iassy and, in 1901 he moved to the University of Bucharest. Tanoviceanu is also the author of an impressive *Treaty of Criminal Law and Criminal Procedure*, published between 1924 and 1927, which is still highly appreciated even nowadays.

1867, Romania had its first judicial statistics that provided information on the number of offenders, their religion, gender, age or education. Tanoviceanu admitted that these judiciary statistics were unreliable for many reasons. Still, he compared the results with those of 1886 and showed that “the increase in crime rates in our country is frightening”.<sup>1</sup> Based on the statistics there was an increase of arrests from 4.26‰ to 25.16‰ between 1867 and 1886 and of convicted people from 2.96‰ to 13.21‰. Undoubtedly, the statistics offered a worrying picture of crime rates but we cannot rely entirely on this kind of information. Tanoviceanu himself changed the initial data to account for the population growth in Romania or for other flaws of the statistical data. His first study on the crime rates, published in 1896, was soon followed by one in 1902<sup>2</sup> that examined crime rates between 1867 and 1898 and another one 1909<sup>3</sup> that analyzed similar data for the timeframe 1869-1904. In regards to the interpretation of judiciary statistics, we adhere to R. S. Sindall’s approach<sup>4</sup> that statistics are not a reflection of a phenomenon but a phenomenon in themselves, data on the basis of which individuals thought of crime. Therefore, it is actually more important what Tanoviceanu believed about these judiciary statistics or about the causes of crime than the actual data on crime.

The Romanian jurist compared the statistical data from European countries with local crime rates and noticed that the increase in criminal activity from Romania even exceeded that of other states from the continent<sup>5</sup>. He also dealt with the increase in crimes rates that affected the rural population<sup>6</sup>. In 1867, 62% of those in prison were from rural areas but in 1886, the percentage rose to 77%. We should consider that in 1899, 81.2% of the population lived in rural areas. Tanoviceanu pinpointed some causes of crime in rural areas: land disputes and alcoholism. Still, others identified different causes. Dem. I. Dobrescu, (1869-1948), a lawyer, quoted Lombroso to suggest that Romanian peasants were similar to savages because of their insensibility to pain and superstitious nature<sup>7</sup>.

Tanoviceanu’s three studies focus on the causes of crime in Romania. Generally, he explained crime as a phenomenon with social causes. Even though, as Erbiceanu<sup>8</sup> and others stated, Ioan Tanoviceanu defended the Italian school of criminology, at least at one stage of his career, ideas such as the biological determinism of crime or the existence of a criminal man, did not find their way in his studies that examined the causes of crime. Of course, not all of the criminologists, included in the so-called Italian school of criminology, totally adhered to the biological determinism of crime. Enrico Ferri, unlike Lombroso,

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<sup>1</sup> Ioan Tanoviceanu, *Creșterea criminalității în România. Causele și mijloacele de îndreptare* (The Rise of Crime in Romania. The Causes and the Means of Correction) (Iași: Tipografia Nationala Strada Alexandri, 1896), 9.

<sup>2</sup> Idem, *România sub raport*.

<sup>3</sup> Idem, *Criminalitatea în România după ultimile publicațiuni statistice* (Crime in Romania according to the latest statistics) (Bucharest: Tipografia Arte Grafice, 1909).

<sup>4</sup> Rob S. Sindall, “The criminal statistics of nineteenth-century England cities: a new approach”, *The Urban History Yearbook* (1986): 28-36, 35.

<sup>5</sup> Tanoviceanu, *Creșterea criminalității*, 13.

<sup>6</sup> Ibid., 30-31.

<sup>7</sup> Dem. I. Dobrescu, “Psihologia penală a românului” (The Romanian’s Penal Psychology), *Revista de drept și sociologie* II (1899): 17-43, 39-42.

<sup>8</sup> Erbiceanu, *Tendențe noi*, 240.

centred on the economical or social causes of crime<sup>1</sup>. For Tanoviceanu, the growth of urban population, the concentration in cities stood behind the increase in crime rates. This idea was widespread among most nineteenth criminologists from Western and Central Europe. Still, in Romania the urban population growth was not impressive during the age<sup>2</sup>. However, Tanoviceanu brought forward other possible causes, like the progress achieved by the police, which led to the discovery of many more criminals and thus to an increase in crime rates. It is ironical that an increased efficiency of the police actually results in an increase of official crime rates.

According to Tanoviceanu, the state of poverty was a major cause of crime. He pointed out that two other phenomena amplified the impact of poverty: the weakening of the religious feeling and the lack of education.<sup>3</sup> In 1869, there were 17.5 Orthodox offenders in prisons for every Jew offender but later, in 1879, this ration became 30 to 1 and, in 1886, it was 33 to 1.

The legislation itself caused the increase of crime because “it didn’t protect the weak and the powerful could escape punishment”. Like other authors, Ioan Tanoviceanu criticized the Criminal Code of 1865 mainly because he regarded it as a collection of Western European laws. Nevertheless, this was only partly true since the committee that drew up the Criminal Code had also integrated laws from Wallachia and Moldavia. He urged for the temporary restoration of the death penalty but only for the most serious felonies such as murder.<sup>4</sup> This was however only one of the solutions proposed by Tanoviceanu. In addition, he called for a reformation of the judiciary system and for the introduction of social protection measures.

One the most fervent opponents of the death penalty restoration proposal was Grigore I. Dianu, General Inspector of the Prisons. He too investigated the issue of crime and its causes in the Romanian society.<sup>5</sup> Dianu considered Tanoviceanu’s view regarding the increasing crime rates as unrealistic. His selective analysis of the criminal statistics revealed that during 1869-1902, the number of convictions for felonies such as robberies or murders was dwindling. Furthermore, the existence of fluctuations for crime rates proved, according to Dianu, that any increase was in fact temporary and not a trend<sup>6</sup>. It is unclear which of the two, Dianu or Tanoviceanu came closer to a realistic picture since they either examined the statistics selectively or modified the data to account for the population growth. Moreover, they analyzed slightly different periods. Finally, the criminal statistics of the age were unreliable; they did not reflect the reality and both authors based their interpretations upon these flawed data. In regards to the causes of crime, Dianu largely agreed with Tanoviceanu, naming the lack of education or poverty as major factors.

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<sup>1</sup> Carrabine et al., *Criminology*, 59.

<sup>2</sup> Gheorghe Platon, ed., *Tratatul de Istorie a Românilor. De la Independență la Marea Unire (1878-1918)* (The Treaty of the Romanians’ History. From Independence to the Great Unification 1878-1918) Vol. VII, tome II, (Bucharest: Editura Enciclopedică, 2003), 57.

<sup>3</sup> Tanoviceanu, *Creșterea criminalității*, 24.

<sup>4</sup> *Ibid.*, 94.

<sup>5</sup> Grigore I. Dianu, *Criminalitatea și cauzele ei în România: studiu social și de moravuri* (Crime and its Causes in Romania: Social and Manners Study) (Bucharest: Tipografia Curtii Regale, F. Gobl, 1905).

<sup>6</sup> *Ibid.*, 20.

Grigore Dianu also published a book<sup>1</sup> that dealt with the history of prisons in Romania. He wrote about the history of prisons from a chronological perspective starting with the Middle Ages and focusing on the seventeenth century with the reigns of Vasile Lupu and Matei Basarab. He did not ignore the major reforms of the nineteenth century, in 1831, 1862 and 1874. However, from a criminological perspective, his study of 17 types of inmates is truly interesting.<sup>2</sup> In his Lombrosian-like analysis, Dianu explained their behaviour by highlighting some of their physical or psychological traits. This was not totally a biological determinism as he presented the childhood or education of every convict, suggesting that society had the greatest impact upon their lives. Despite the usage of Lombrosian elements, Dianu did not clearly adhere to the idea of a “born criminal”. On the contrary, he stressed the importance of society in general, or of education. Most likely, he took over methods popularized by Cesare Lombroso to confer credibility to his study. In Romania, as Simona Antonescu suggested, references to famous authors from Western Europe were often intended to give credibility. The phenomenon is typical for many nineteenth century studies.

Others approached the organization of prisons too. Constantin V. Obedeanu, a prosecutor from Ilfov, examined the ways in which the law reforms had influenced the administration of prisons. He emphasized the fact that the laws could not be successfully enforced. In particular, article five of the 1874 Law that referred to sermonizing in prisons proved unrealistic<sup>3</sup>. In addition, most prisons had been monasteries so the buildings were not appropriate for the implementation of measures designed to modernize the prison system. Many convicts were able to either hide weapons in cells or even escape due to this.<sup>4</sup> Ion Constantinescu-Mion showed more interest in moralizing inmates. He believed “the priest was the most powerful mean of correcting the souls lost in the darkness of ignorance and evil”.<sup>5</sup> Education and discipline were the best ways to moralize inmates. Like Dianu, he identified different types of criminals: hereditary, accidental and those prone to criminal activities.<sup>6</sup> Constantinescu-Mion also advocated the idea of the gentle manners of Romanians: “I won’t talk about the causes of crime in our country as it is known that not the nature of Romanians is guilty when one commits an offence, but rather ignorance or family turmoil are responsible”.<sup>7</sup>

Another author, Puiu Alexandrescu, an ex-chief of *Siguranța Generală*, Romania’s first secret service, correlated criminal types with ethnicity. In his view, the Greeks were greedy, wanted to get rich and therefore, they became bank robbers. The

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<sup>1</sup> Idem, *Istoria închisorilor din Romania, studiu comparativ de Legi si Obiceiuri* (The History of Prisons in Romania, Comparative Study of Laws and Customs) (Bucharest: Tipografia Curtii Regale, F. Gobl, 1900).

<sup>2</sup> Ibid., 154-170.

<sup>3</sup> Constantin V. Obedeanu, *Considerațiuni asupra evoluțiunei dreptului penal în raport cu regimul nostru penitenciar* (Considerations on the Evolution of the Criminal Law in Relation to our Penitentiary System) (Bucuresci (Bucharest): Tipografia „Clemența”, 1903), 45.

<sup>4</sup> Ibid., 42.

<sup>5</sup> Ion Constantinescu-Mion, *Moralizarea deținuților și pregătirea lor pentru o viață cinstită* (The Moralization of the Convicts and Their Preparation for an Honest Life) (Bucharest: Tipografia Rosenthal& Gold, 1911), 11.

<sup>6</sup> Ibid., 5.

<sup>7</sup> Ibid.

Jews, being shrewd but coward, were swindlers. The Hungarians, the Bulgarians, the Serbs and the Poles, usually ended up as cold-blooded murderers. Probably the worst of all were the Gypsies. He considered them nothing but “savage beasts”, “the most terrible murderers”.<sup>1</sup>

### The stereotype of the gentle Romanians

The stereotype of the gentle Romanians is a reoccurring theme for several authors who wrote about crime, criminals or criminal law. In fact, it was used for the construction of the Romanian national identity in the 19<sup>th</sup> century. Members of the intellectual elite from Wallachia or Moldavia and later, Romania, promoted the stereotype to prove the moral superiority of Romanians over other nations. This superiority focused on two phenomena, on one hand, a presumably low crime rate in Wallachia or Moldavia, later in Romania, and on rare capital punishment sentences before 1865. The stereotype also highlighted an element specific for Romanians when compared with other European nations and contributed to the shaping of the Romanian national identity. Identity is constructed in relation with the “Other”. Crime or the absence of crime are usually associated with morality or immorality, there is a duality between “Good” and “Evil”. In this case, the “Other” is different from the “gentle Romanian”. Since the Romanians were depicted as “good” or “gentle”, then the foreigners would necessarily be “evil” or “wicked” to amplify the intensity of the stereotype of the gentle Romanians.

Probably the first promoter of the idea of the gentle Romanians was Ion Heliade Rădulescu (1802-1872). In 1839, he published the translation of Victor Hugo’s *Le Dernier Jour d’un condamné* (1829). A certain Ștefan Stoica, the translator of the novel, wrote to Ion Heliade Rădulescu and suggested that an effective reply to the disparagements of foreign authors towards Romanians would be to emphasize the low crime rate and soft punishments characteristic to Wallachia and Moldavia. Rădulescu was delighted by this idea and wrote back to the translator bringing further evidence that supported his proposal. For instance, only a foreigner wanted to become an executioner in Wallachia and Heliade Rădulescu thought this proved the moral superiority of Romanians<sup>2</sup>. He even went as far as to state that Victor Hugo’s purpose when writing the novel was “to make Europe as gentle as the Romanians were”<sup>3</sup>.

Other authors too, like Alecu Russo (1819-1859), insisted that Romanians avoided the dishonourable job of executioner. He recounted an anecdote about a band of outlaws that had been captured by the authorities. Only one outlaw, who was a Gypsy, accepted to become an executioner to elude the death penalty: “The Romanian can be a thief, a steward, a judge, anything, but an executioner never”.<sup>4</sup> Nicolae Șuțu also referred

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<sup>1</sup> Puiu Alexandrescu, *În lumea celor răi* (In the World of the Wicked), Vol. I, (Bucharest: Tipografia „Gutenberg”, 1911), 5.

<sup>2</sup> Valentin Al. Georgescu, “Locul gândirii lui Beccaria în cultura juridică și în dezvoltarea dreptului penal de la 1821 până la 1864” (Beccaria’s Reflections in the Judicial Culture and in the Development of the Criminal Law from 1821 until 1864), *Studii. Revista de Istorie*, No. 4, tome 21 (1968): 685-714, 697.

<sup>3</sup> Ibid.

<sup>4</sup> Alecu Russo, *Scrieri* (Writings) (Bucharest: Minerva, 1910), 50.

to gentleness of Romanians. Starting from the judiciary statistics of Moldavia<sup>1</sup>, which showed a decrease in crime rates, he argued that the gentleness of the people was one of the major causes for the low crime rates. Moreover, according to Șuțu, foreigners, not local inhabitants, committed the serious felonies, punishable by death.<sup>2</sup> Gypsies and Jews usually stole and most Romanians had mitigating circumstances if involved in criminal activities, especially drunkenness<sup>3</sup>. In addition, Șuțu compared crime rates from France with those from Moldavia. Undoubtedly, it was flattering to know that in France, on average, one person in 348 inhabitants faced charges for a felony or offence, whereas, in the peaceful Moldavia, only one in 7,612 people had to answer the official accusations.

The idea that foreigners committed the serious felonies and not Romanians was present even later in the nineteenth century. We have already quoted Vasile Conta who considered that “the Romanians have gentler manners compared to foreigners”.<sup>4</sup> Grigore Dianu too expressed similar views. Felonies “were not in the nature of Romanians”<sup>5</sup>; usually foreigners were responsible for the most atrocious crimes. Robberies seemed to be a characteristic for nomadic Gypsies, according to Dianu. As many others, he stated that the bad influence of foreigners contributed to the weakening of morality among Romanians, the Fanariots being the main culprits. The stereotype of the gentle Romanians is noticeable even in school textbooks. In Reading or Geography textbooks,<sup>6</sup> we came across statements like: “Romanians are compassionate and very hospitable”. One of the authors of such textbooks, N. Istrati<sup>7</sup> insisted upon the idea of the gentle Romanians. In 1860, he wrote: “[...] So much do our kind and peaceful inhabitants, of all the upbringings, love order and fulfill their tasks that crimes punishable by capital executions, which require the intervention of armed authorities, do not occur [...]”.

The lack of serious crimes, punishable by death, justified the idea that Romanians were indeed gentle. However, this is not typical just of Romanian authors; some foreign travelers also shared the idea. In his study that analyzed the image of the Romanians in the German speaking space during 1785-1918, Klaus Heitmann<sup>8</sup> mentioned the

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<sup>1</sup> Nicolas Soutzo, *Notions statistiques sur la Moldavie* (Jassy (Iași), 1849), 73.

<sup>2</sup> *Ibid.*, 74.

<sup>3</sup> *Ibid.*

<sup>4</sup> Conta, “Teoria fatalismului”, 191. This xenophobic statement would be criticized by Tanoviceanu. He quoted the cases of some famous Romanian outlaws who were as dangerous as those from other countries. Ion Pipa or G. Lascarache (prosecuted in 1900 for over 80 robberies and 40 murders) are just two examples. See Ioan Tanoviceanu, *Tratat de Drept și Procedură Penală* (Treaty of Law and Criminal Procedure), vol. III, second edition, revised Vintilă Dongoroz, (Bucharest: Tipografia „Curierul Judiciar”, 1924-1926), 315.

<sup>5</sup> Dianu, *Criminalitatea*, 7.

<sup>6</sup> Mirela-Luminița Murgescu, *Între „bunul creștin” și „bravul roman”. Rolul școlii primare în construirea identității naționale românești (1831-1878)* (Between the Good Christian and the Brave Romanian. The Role of Primary School in the Construction of the Romanian National Identity) (Iași: Editura A' 92, 1999), 172.

<sup>7</sup> *Ibid.*

<sup>8</sup> Klaus Heitmann, *Imaginea românilor în spațiul lingvistic german 1785-1918* (The Image of the Romanians in the German Linguistic Space), trans. and introd. Dumitru Hîncu, (Bucharest: Editura Univers, 1985), 192-213.



stereotype of the gentle Romanians as a reoccurring idea in the discourse of some travelers. French authors were also familiar with this stereotype, Jules Michelet<sup>1</sup> and Jean Richepin<sup>2</sup> having written about it.

### **Criminological theories in Romania**

The reception of criminological theories in Romanian encyclopaedias or dictionaries is a useful approach. In Cornelius Diaconovich's (1859-1923) encyclopaedia, the explanation for the term "crime" referred to Cesare Lombroso:

"[...] Nowadays some schools of criminologists seek to depict crime as a pathological phenomenon, which is only common for degenerate beings. Lombroso's school, which supports these theories, has created a new science, called criminal anthropology, to study crime; this science is much criticized and very dangerous. That's because it shows crime as a fatality"<sup>3</sup>.

The same critical or, at least, cautious view towards Lombrosian theories was present in the third tome of the encyclopaedia. Interestingly, the names of Lacassagne or Tarde, two of Lombroso's best-known critics were missing. The explanation provided for "Lombroso" was:

"Lombroso will have a place in the science of our age despite the superficiality of many of his writings...What he often lacks is the absence of a scientific spirit, which he usually neglects, and so decays to the level of an ordinary journalist...His works are translated into all the languages; his name is well-known, perhaps too much, especially through his secondary writings..."<sup>4</sup>.

Although Diaconovich's encyclopaedia illustrated Lombroso's theories in a critical manner, other dictionaries such as Lazăr Șăineanu's<sup>5</sup> (1859-1934) *The Universal Dictionary of the Romanian Language* (1896), did not even mention the words "criminal anthropology" or "criminology".

On the other hand, it is necessary to examine the degree to which Romanian authors were familiar with studies from Western Europe. This is important for examining the influence of Western ideas upon criminological discourses from Romania. In order to provide a complete analysis it would be ideal to consider as many cases before drawing any conclusions. However, we will refer only to a few situations.

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<sup>1</sup> Jules Michelet, *Legends democratiques du Nord*, (Paris: Garnier Frères, Libraires Editeurs, 1854), 287-288.

<sup>2</sup> Jean Richepin, *L'Âme roumaine, La Roumanie. Conférences faites à l'Union Française*, (Paris : Union Française, 1918), 123.

<sup>3</sup> Corneliu Diaconovich, *Enciclopedia Română* (The Romanian Encyclopedia), vol. II, (Sibiu: W. Krafft, 1900), 46.

<sup>4</sup> *Ibid.*, tome III, 1904, 122.

<sup>5</sup> Lazăr Șăineanu, *Dicționar universal al Limbei Române* (The Romanian Universal Dictionary) (Craiova: Editura Ralian și Ignat Samitica, 1896).

The reception of Lombrosian theories in Romania was mostly indirect, mediated by other foreign authors and thus altered by previous interpretations<sup>1</sup>. Still, many Romanian authors quoted Lombroso or other criminologists from the Italian school of criminology and we could use this as a standard for comparing various criminological studies.

Vespasian Erbiceanu, Nicolae and Mina Minovici tried to apply Lombrosian theories to Romanian criminals. These thorough investigations prove a superior understanding of those theories. However, many other authors adopted them in a rather superficial manner. Ioan Tanoviceanu wrote<sup>2</sup> about a polemic between the jurist Constantin Dissescu and Ștefan Mihăilescu, a school inspector during a conference at the Athenaeum in 1892. Dissescu argued that education cannot influence crime and diminish crime rates and his opponent believed the contrary. Ștefan Mihăilescu “aspired to act like an anthropologist and brought at the conference two skulls, one belonging to Licinschi and one to a teamster who had been an honest man all his life and claimed that the public would immediately recognize the skull of the notorious bandit”.<sup>3</sup> Tanoviceanu thought Mihăilescu was “an improvised lombrosist” because biological determinism contradicted his initial position – that education influences crime. The confusion about criminological theories persisted in universities too. Many bachelor degree papers from law faculties were published and we can use them as sources. Some of these papers displayed a basic chronological error<sup>4</sup>, indicating that Cesare Lombroso published his famous *L'Uomo Delinquente* in 1871 and not in 1876 as it is widely accepted. In other cases, they were compilations of uncritically adopted Western theories. Gheorghe S. Alexandrescu published his bachelor degree paper that discussed the causes of crime in 1895. Although he employed many theories of the Italian school of criminology, Alexandrescu failed to mention anything about the critics of such theories. Moreover, he combined biological determinism with a geographical determinism and discussed of “lazy nations”<sup>5</sup>. When analyzing the activity of the Juries he attempted to depict the situation from Great Britain but proved his linguistic ignorance<sup>6</sup>: “The English Jury only has to decide upon one’s culpability by saying «guilty or not guilty»” [*sic*].

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<sup>1</sup> We consider that the theories of the Italian school of criminology reached Romania in two stages. The first one was an indirect reception, at the end of the 19<sup>th</sup> century, through French authors. Later, after the end of World War I, during a second stage, more and more Romanian authors admired the Italian school of criminology. See Petre Ionescu-Muscel, *Cesare Lombroso și opera sa: L'Uomo Delinquente* (Cesare Lombroso and his work: L'Uomo Delinquente (1929), republished in Buda, *Criminalitatea*, 282-299; Jean Rădulescu, “Influența pozitivismului italian asupra codificării penale actuale” (The Influence of the Italian Positivism on the Current Criminal Law), *Revista de Drept Penal și Știință Penitenciară* 4-6 (1935): 121-139.

<sup>2</sup> Tanoviceanu, *Creșterea criminalității*, 26, 32-33.

<sup>3</sup> Ibid., 32.

<sup>4</sup> See Virgiliu M Sălcianu, *Școla Penală Positivistă* (The Positivist Penal School) (Bucharest: Institutul de Arte Grafice „Eminescu”, 1904), 16 and Maria Conescu, *Cele Doue Școli: clasică și pozitivistă penală* (The Two Penal Schools: Classic and Positivist) (Bucharest: Institutul de Arte Grafice „Eminescu”, 1904), 33.

<sup>5</sup> Gheorghe S. Alexandrescu, *Causele crimelor și delictelor. Critica mijloacelor de represiiune* (The Causes of Felonies and Offences. The Critique of the the Means of Repression) (Focșani: Tipografia Alessandro Codreanu, 1895), 39.

<sup>6</sup> Ibid., 74.

## Social factors and crime

Those who wrote about crime in nineteenth century Romania usually emphasized the influence of social factors. Anastase Ștefănescu-Galați advocated the importance of the environment in determining a criminal behaviour. In addition to the social environment – family, the press or the prison, he also added the influence of cosmic elements – air, temperature or soil. This is a clear inspiration from Western theories. Heredity too leads to crime, according to him: “The son of a thief or of an assassin will have greater chances of becoming himself a thief or an assassin than the son of those who didn’t steal or kill”.<sup>1</sup> Moreover, even moral traits or vices were inherited: “Drunkenness, the passion for playing cards, lying, and adultery are also passed down”.<sup>2</sup>

Alcoholism was frequently associated with crime. The first author who used statistical data in order to establish a connection between alcoholism and crime was George Mileticiu. His study concluded that 20% of the convicts from prisons located in the Dolj County were alcoholics.<sup>3</sup> Ion T. Bastache,<sup>4</sup> a prosecutor from Galați, argued that alcoholism led to an increase in crime rates in most countries. For the priest Thoma Ștefănescu alcoholism seemed like a disease transmitted hereditary.<sup>5</sup> He did not ignore social causes of crime though. Thus, divorce or bad relations between parents were a prerequisite for juvenile delinquency. Furthermore, many felonies or offences were committed during “popular holidays” and other “opportunities of waste”. Ștefănescu exposed the fact that some individuals actually stole so they could attend these banquets and dances.<sup>6</sup> Another study that examines the connection between alcohol and crime belongs to C. S. Ballan. Using statistical data on crime from Europe or from the United States, he proved that a significant percentage of criminals were also alcoholics<sup>7</sup>. Regarding crime rates in Romania, he estimated that 40% of all crimes had been committed under the influence of alcohol.<sup>8</sup> The author also took over, uncritically, Lombroso's theory that the criminal is a savage man.<sup>9</sup>

The idea of a link between crime and the moral crisis was popular in the age too. Louis Proal<sup>10</sup> had discussed about the era of different crises – moral, social,

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<sup>1</sup> Anastase Ștefănescu-Galați, *Mediul social și criminalitatea în România* (The Social Environment and Crime in Romania) (Bucharest: Tipografia ziarului „Curierul Judiciar”, 1904), 13.

<sup>2</sup> Ibid., 14.

<sup>3</sup> George Mileticiu, *Studii Psihiatrice* (Psychiatric Studies) (Craiova: Tipo-Litografia Națională Rallian și Ignat Samitca, 1895), 40. See also one of his earlier studies, George Mileticiu, *Alcoolismul. Efectele sale fizice și morale asupra populațiunei* (Alcoholism. Its Physical and Moral Effects on the Population) (București (Bucharest): Typographia Curții, proprietar F. Gobl, 1881).

<sup>4</sup> Ion T. Bastache, *Alcoolism și criminalitate* (Alcoholism and Crime) (București (Bucharest): Imprimeria Statului, 1894), 9-11.

<sup>5</sup> Thoma Ștefănescu, *Societatea, Familia și Criminalitatea* (Society, Family and Crime) (Bucharest: Tipografia modernă „Gr. Luis”, 1904), 7.

<sup>6</sup> Ibid., 19-20.

<sup>7</sup> C. S. Ballan, *Sufletul criminalului* (The Murderer's Soul) (Focșani: Tipografia Gh. Diaconescu, 1911), 30.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid., 19.

<sup>10</sup> Louis Proal, *Le Crime et la Peine* (Paris : Félix Alcan, 1892), 3.

or criminal. Ioan Dinescu Barzan<sup>1</sup> adopted Proal's view. He brought forward the issue of the impact of the civilizing process upon crime. Barzan wrote about "civilized barbarians" who did not brutally murder but stole at the game of cards.<sup>2</sup> The author considered that science was a threat for society, as it did not have a moralizing effect, like religion. Alexandru Degeanu published a study<sup>3</sup> with an almost identical title, which also debated the idea of a conflict between science and religion. Vasile Chiru analyzed the moral crisis from a different perspective. Moral crimes<sup>4</sup> were those censured only by each individual's conscience not by the laws of the State. However, the author quoted Lombroso's idea of "the born criminal". While still enumerating some critics of this theory he admitted, "at birth, everyone is, more or less, a criminal, without exception".<sup>5</sup>

The newspapers of that time frequently reported criminal activities. Some authors considered this was a dangerous phenomenon because newspaper readers would have been inspired by crime news. Aurel Alexandrescu-Dorna (1870-1910) was outraged that the Romanian press wrote a lot about beatings or murders, all described in detail. He quoted more studies<sup>6</sup> to support his idea that the presentation of violence leads to the reader's emotional reaction, which could influence him to commit different offences. Alexandrescu-Dorna considered that "the public was hungry" for the excitement of crime news and this represents a serious social danger.<sup>7</sup> The press would then respond to the need for news about extra-ordinary events. Therefore, the press had a direct influence upon crime causing its increase.

### Forensic medicine and crime

During the nineteenth century, forensic medicine was of paramount importance for the birth of criminology. Many of the criminological theories relied upon data provided by forensic medicine. The shift of interest from the study of offences to the examination of the criminal, which started in the first part of the nineteenth century,<sup>8</sup> was instrumental in establishing the key role that forensic medicine had within criminology. The history of Romanian forensic medicine is associated with the names of Mina and Nicolae Minovici. Long before forensic medicine became an accepted science, medical expertise had been required in different circumstances. The criminal laws from the seventeenth century, elaborated during the reigns of Vasile Lupu and Matei Basarab specifically

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<sup>1</sup> Ioan Dinescu Barzan, *Influența crizei morale asupra criminalității* (The Influence of the Moral Crisis on Crime) (București (Bucharest): Lito-Tipografia „Populară”, 1895), 33.

<sup>2</sup> Ibid., 35.

<sup>3</sup> Alexandru Degeanu, *Influența crizei morale asupra criminalității* (The Influence of the Moral Crisis on Crime) (București (Bucharest): Tipografia „Adeverul”, 1903).

<sup>4</sup> Vasile Chiru, *Criminalii morali* (Moral Criminals) (Bucharest: Tipografia „Victoria”, 1907), 50.

<sup>5</sup> Ibid., 33.

<sup>6</sup> But especially Paul Aubry, *La contagion du meurtre* (Paris : Félix Alcan, 1888).

<sup>7</sup> Aurel Alexandrescu-Dorna, *Presa și propagarea crimei* (The Press and the Propagation of Crime) (Bucharest: Gutenberg, 1899), 8.

<sup>8</sup> Georges Vigarello, *Istoria violului între secolele XVI-XX* (The History of Rape between the 16<sup>th</sup> and the 20<sup>th</sup> Centuries) trans. Beatrice Stanciu, (Timișoara: Editura Amarcord, 1998), 243.

asked for such examinations in cases of poisoning, injuries or insanity<sup>1</sup>. In the first part of the nineteenth century, autopsies were being performed in Wallachia or Moldavia.<sup>2</sup> In 1856, Carol Davila set up a School of Surgery and five years later, George Atanasov became the first professor of forensic medicine.<sup>3</sup> However, there were no significant scientific achievements within the field of forensic medicine until the end of the century. In 1892, Mina Minovici created the Bucharest city morgue. Later, he reorganized the service of anthropometry<sup>4</sup>, which helped with the identification of criminals. Mina Minovici and his brother Nicolae also published some of the most compelling and interesting studies about crime or criminals in the late nineteenth century Romania.

Nicolae Minovici (1868-1941) investigated the link between tattoos and criminals in his 1898 PhD thesis. Cesare Lombroso considered tattooing a social stigma, indicating “a born criminal”. In his thesis, Nicolae Minovici showed that in Romania, tattooing was common especially for the lower classes.<sup>5</sup> However, in contrast with other European countries, there were fewer tattooed offenders in Romania. He also pointed out that tattoos were characteristic mainly for adult criminals and very rare for juvenile offenders, which contradicted Lombroso’s theory of tattooing.<sup>6</sup> The conclusions of the study highlighted the fact that tattooing was not necessarily an indicator of criminal behaviour<sup>7</sup>. In addition, offenders usually had tattooed because of the social environment and not due to some biological, internal causes<sup>8</sup>. This critique of biological determinism was typical for both of the Minovici brothers. Nicolae also got involved in the development of the service of anthropometry, which Mina had reorganized. He wrote a textbook of anthropometry<sup>9</sup> based on Bertillon’s researches to be used by police officers. This was a practical guide on how to identify a person based on physical characteristics. The identification system based on Alphonse Bertillon’s method had been used in Romania since 1892. Grigore Olănescu showed how during 1892-1895, 5,397 individuals had been measured<sup>10</sup>. They were classified according to age, ethnicity or social environment.

Besides his role in the development of Romanian forensic medicine, Mina Minovici (1858-1933) was known abroad as well. He had met Cesare Lombroso, had worked in Pasteur’s laboratory and had been Paul Brouardel’s student.<sup>11</sup> Moreover, he

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<sup>1</sup> Vladimir Beliș, *Tratat de Medicină legală* (Treaty of Forensic Medicine) (Bucharest: Editura Medicală, 1995), 17.

<sup>2</sup> Ibid., 19-21.

<sup>3</sup> Buda, *Criminalitatea: o istorie medico-legală românească*, 17.

<sup>4</sup> Nicolae Ioanid, *Frații Minovici* (The Minovici Brothers) (Bucharest: Editura Științifică, 1975), 56.

<sup>5</sup> Nicolae Minovici, *Tatuajurile în România* (Tattooes in Romania) (Bucharest: Socecu, 1898), 106.

<sup>6</sup> Ibid., 112.

<sup>7</sup> Ibid., 114.

<sup>8</sup> Ibid., 142.

<sup>9</sup> Nicolae Minovici, *Școla Anthropologica Bertillon pentru Agenții de Poliție* (The Bertillon Anthropological School for Police Agents) (Bucharest: Imprimeria Statului, 1900).

<sup>10</sup> Grigore Olănescu, *Mémoire sur le progrès de la statistique en Roumanie et sur la création du service d’anthropométrie* (Berne:1895),13-15.

<sup>11</sup> Buda, *Criminalitatea: o istorie medico-legală*, 19-20.

participated at several congresses of criminal anthropology. One of his studies, presented at the Congress of Criminal Anthropology from Geneva in 1896, illustrated his researches on Romanian criminals.<sup>1</sup> The anthropometric measurements he made on 7,217 inmates suggested a variety of physical features, which would contradict the central idea of the Italian school of criminology, that of “the born criminal”.<sup>2</sup> Minovici insisted upon the social causes of crime, indicating alcohol as the main reason for the moral degeneration of criminals. Other relevant factors were promiscuity and poor living conditions<sup>3</sup>. Similar to Tanoviceanu’s view, he too considered that the weakening of the religious feeling caused an increase in crime rates. The results of his studies opposed the idea of a “born criminal”, as for Minovici, people became and were not born criminals. This critique of the biological determinism had been the topic of an earlier study of Mina Minovici, published in 1893 – *Criminal anthropology and responsibility*<sup>4</sup>. He admitted that Lombroso and the Italian school of criminology had been crucial for the development of criminology but then focused on the analysis of the ideas linked with the theory of “the born criminal”. Minovici argued that the intellectual basis for the theory was flawed.

Romanian forensic scientists were also preoccupied with female criminals. Mina Minovici published in 1907 such a study.<sup>5</sup> He wanted to prove that women became less frequently involved in criminal activities because they did not drink as much as men did. Most of their offences targeted men who had assaulted them, they were motivated by revenge. According to him, both prostitution and female crime were caused by poverty. However, Minovici’s article was identical with some sections of another study about female crime from Romania, published in 1904, a PhD thesis belonging to one of his students, E. Movilian.<sup>6</sup> A woman, Maria Cicherschi wrote one of the most compelling studies on female crime<sup>7</sup>. Many of the theories and methods she used were reminiscent of Cesare Lombroso. For instance the comparison between the

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<sup>1</sup> Mina Minovici, “Remarques statistiques relatives a l’anthropologie du criminel”, *Archives des Sciences* 6 (1896): 536-542.

<sup>2</sup> *Ibid.*, 537.

<sup>3</sup> *Ibid.*, 541.

<sup>4</sup> Idem, *Antropologia criminală și responsabilitatea* (Criminal Anthropology and Responsibility) (Bucharest: Tipografia „Thoma Basilescu”, 1896).

<sup>5</sup> Idem, “Remarques sur la criminalité feminine en Roumanie”, *Archives d’Anthropologie Criminelle de Médecine légale de de Psychologie Normale et Pathologique*, Tome XXII, (1907) : 565-579.

<sup>6</sup> E. Movilian, *Contribuție la studiul antropologiei criminale. Criminalitatea la femei* (Contribution to the Study of Criminal Anthropology. Crime and Women) (București (Bucharest): Stabiliment Grafic Țăranu & Co, 1904). Apparently, this is a situation of plagiarism. Pages 565-566, 567-574 and 575-579 from Minovici’s study were identical with pages 31-34 , 64-76 and 83-92 from Movilian’s thesis. However, Movilian admitted that Minovici had shared with him data on female crime from an unpublished article. Still, entire pages were identical so Movilian could have taken more than just data and a few ideas from Minovici. On the other hand, Minovici himself failed to even mention Movilian’s name in his 1907 article, published three years after Movilian’s thesis.

<sup>7</sup> Maria Cicherschi, *Biologia și femeia criminală* (Biology and the Murderous Woman) (Iași: Tipografia H. Goldner, 1907).

savage and the civilized woman<sup>1</sup>. Still, in her view, crime was determined by a multitude of factors like the climate, heredity and, most of all, social environment. This is an obvious detachment from the biological determinism. Maria Cicherschi employed methods typical to criminal anthropology<sup>2</sup> to depict physical features of criminals like the cranial capacity, the facial angle, height, weight or the arms length. She also put to practice some criminological theories by analyzing a few cases of criminal women, which she divided into several types. Some of the felonies she investigated were poisoning cases and crimes of passion.

## **Conclusions**

Within the realm of forensic medicine, Romanian scientists opposed the idea of a biological determinism of crime, typical for the Italian school of criminology. Instead, they usually depicted crime as a socially determined phenomenon. This however, did not stop them from using methods popularized by criminal anthropology. Their approach is similar to that of most jurists or social reformers from Romania who disagreed with Cesare Lombroso's theories but often quoted his researches. Some authors referred to celebrities from Western science only because this would bestow credibility to their studies. The general critique of the Italian school of criminology was caused by the indirect manner in which lombrosian theories reached Romania, being adopted from foreign authors, often French, who had already interpreted them. Furthermore, it had been a late adoption; Romanian authors started quoting Lombroso, predominantly from the 1890's, at a time when the theories of the Italian school of criminology were widely contested and not from the late 1870's or early 1880's. This could also explain why most jurists or social reformers explained crime from a sociological perspective, inspired by criminologists like Gabriel Tarde or Alexandre Lacassagne.

A few authors either defended theories of the Italian school of criminology or tried to apply them. According to Vespasian Erbiceanu, the jurist Tanoviceanu had promoted such theories. However, in his most important studies, the sociological perspective on crime is predominant. Not all the members of the Italian school of criminology insisted on biological determinism, Enrico Ferri for instance investigated the economic and social causes of crime. Erbiceanu himself applied the idea of "hidden epilepsy" for the Ispășoiu case but he did not agree with all of Lombroso's theories. Grigore Dianu also used criminal anthropology and classified criminals into types but considered the social factors as decisive for a criminal behavior.

It's easy to notice a certain superficiality in regards to the manner in which criminological theories had been adopted. The polemic between Constantin Dissescu and Ștefan Mihăilescu or the chronological errors from bachelor degree papers are just a few examples. Still, some studies were thorough investigations of Western European criminological theories. The Minovici brothers, Ioan Tanoviceanu, Vespasian Erbiceanu or Maria Cicherschi not only analyzed such criminological theories but also used them in researches that investigated crime in the Romanian society.

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<sup>1</sup> Ibid., 25, 34.

<sup>2</sup> Ibid., 38-49.

The criminological discourses can be described as diverse. Some authors were jurists – Ioan Tanoviceanu, Vespasian Erbiceanu, Iulian Teodorescu, Aurel Iorgulescu, others high officials – Grigore Dianu, one was a priest – Thoma Ștefănescu, one a journalist – Aurel Alexandrescu-Dorna, one a psychiatrist – Alexandru Șuțu and some were forensic experts – Mina and Nicolae Minovici. This disciplinary hybridity of criminology was a feature present in Western Europe too, not just in Romania. Criminology used methods and theories from different fields of study, law, forensic medicine, sociology, statistics, psychiatry or anthropometry so that experts from all these disciplines could contribute to its development.

In Romania, the birth of criminology was linked with modernization. The 19<sup>th</sup> century Romanian society went through many changes and that period was one of modernization. If we consider Anthony Giddens' definition of modernization, this also meant the gradual expansion of Western ways of organizing the society to other areas, including Romania, naturally. The diverse criminological discourses from late 19<sup>th</sup> century Romania were influenced by Western European theories or methods. The Penal Code of 1865 was more than the manifestation of an "influence", some considered it a mere reproduction of laws from Western and Central Europe. The birth of criminology in Romania was a form of modernization.

Although these criminological preoccupations could be viewed as a form of modernization, some of them had been "corrupted" by stereotypes like the idea of the gentleness of the Romanians. Both Nicolae Șuțu and Grigore Dianu interpreted criminal statistics as a confirmation of this stereotype. In this respect, the birth of Romanian criminology was also affected by the construction of the national identity.

Coming back to the issue of scientific modernization, we cannot admit that at the dawn of the twentieth century modernization was achieved entirely through "grafting". We can identify however a trend towards modernization through "grafting", which had not been obvious until the late 1880s or early 1890s. Despite such a trend, the scientific modernization that manifested itself in the criminological discourses of the age is rather incomplete.