

Chapter 1

Introduction



To Hegel's remark that all the great events and characters of world history occur twice, so to speak, Marx added in *The Eighteenth Brumaire of Louis Bonaparte* that they occur the first time as tragedy and the second as farce. For those who have trudged through Marx's protracted engagement with Hegelianism in the 1840s, his famous reply to Hegel is not lacking in irony. The tradition of the dead generations always weighs like a nightmare upon the minds of the living! Such a burden is also implicit in the pages of the present book.

The specific contents of *Inventing Criminology* derive from a footnote to an essay that I had intended to write, about ten years or so ago, on the place of the concept of the "average man" in the intellectual history of sociology. That essay has not yet been completed, its aim having been abruptly deflected by my confrontation with an intriguing passage in Emile Durkheim's book of 1897, *Suicide*. In that book Durkheim claimed:

When Quételet drew to the attention of philosophers the remarkable regularity with which certain social phenomena repeat themselves during identical periods of time, he thought he could account for it by his theory of the average man—a theory, moreover, which has remained the only systematic explanation of this remarkable fact.¹

What intrigued me about this passage was not so much Durkheim's suggestion—powerful though it might be—that for the origins of certain aspects of their discipline sociologists should look to the theory of social regularities put forward by the Belgian astronomer Adolphe Quetelet in his books *Sur l'homme et le développement de ses*

facultés and *Du système social et des lois qui le régissent* of 1835 and 1848, respectively. Nor did my attention linger over the discriminatory affront posed by the absence of now-obligatory quotation marks around the “average man”—I thought at that time, as I still do, that the meaning of such things must initially be excavated in their own cultural context. Actually, what commanded my interest was the seemingly innocuous fact that in the passage above either his publisher or else Durkheim himself had chosen to impose an acute French accent on the first *e* in Quetelet’s name, a practice that Quetelet himself never seemed to favor. In this respect, Durkheim’s suggestion about the origins of sociology yields an interesting tale about the cultural dominance of the French bourgeoisie in Belgian intellectual life. I discovered that on the frontispieces of those of his books that were published in Brussels the author’s name was printed as “Quetelet,” but almost always as “Quételet” if they had been published in Paris. To wit, by his French publishers and later by Durkheim himself it was intended that Quetelet should be brought down to earth and resurrected with the more ponderous French nomenclature “Quételet.” How and why this brutal act of cultural imperialism should have been perpetrated on Quetelet and on his good name at once became a matter of considerable concern to me.

One thing quickly led to another. A gnawing curiosity about the different spellings of Quetelet’s name prodded me into reading his book *Sur l’homme*. Here I marveled at Quetelet’s extended, presociological commentary on the apparent constancy of crime rates in France in the late 1820s. Soon I learned that his pronouncements on French crime rates derived from official data lodged from 1827 onward in the first set of national crime statistics, the *Compte général de l’administration de la justice criminelle en France*. The invention in France of the *Compte général*, I discovered, was facilitated by a variety of social and intellectual forces. The former included, above all, a vast expansion of the state’s surveillance of the population, the rise of a network of carceral institutions, and middle-class fear of the “dangerous classes”; the latter embraced the movements in statistics, public health, astronomy, and cartography. The respective concerns of these forces coincided in the 1820s in the issue of the regulation of the dangerous classes. Specifi-

cally, they coincided in the realm of prison reform which, revitalized, then fed directly into the structure and argumentation of Quetelet's positivist "social mechanics" of crime.

Before I was aware of it, I had gathered enough material for a lengthy essay, not as I had intended on the concept of the "average man," but on Quetelet's contribution to the rise of positivist criminology. Questions raised by this essay, in turn, propelled me to inquire into other concepts and authors who competed for space on nineteenth- and early twentieth-century bookshelves, especially in France, Belgium, Britain, and Italy. Then traveling backward, breathless and almost without pause, I arrived at the point where most intellectual histories of modern criminology begin, namely, Cesare Beccaria's short treatise *Dei delitti e delle pene* ("Of Crimes and Punishments") of 1764.

Inventing Criminology is a preliminary attempt to uncover and to understand certain key aspects of the process of concept formation in the early history of criminology. Its focus is the transformation in explanations of crime that occurred from the emergence of classicism among the Italian *illuministi* to the triumph of positivism in British criminology or, to identify the period somewhat differently, from the appearance in 1764 of Beccaria's *Of Crimes and Punishments* to the publication in 1913 of Charles Goring's celebrated *The English Convict*. As I try to detail, this formative period was increasingly dominated by positivist explanations of crime. I should now admit, therefore, my unwillingness to debate the putative existence of some genuine, correct description of "positivist" relative to the study of crime. This term is nowadays so frequently abused that it tends to be best understood as an epithet, a weapon directed against those with whom one has political or epistemological disagreement. Positivism has several forms, each of which, according to its context and object, can be more or less appropriate as a method of inquiry. By positivist criminology I refer loosely to a discourse about crime that is predicated on the belief that there is a fundamental harmony between the respective methods of the natural and the social sciences, a discourse, moreover, that views its observational categories as independent of theory. Such a description of positivism has its limitations, of course, but it has the singular merit of

being the one to which, if not from Beccaria then at least from Quetelet onward, the key authors and texts examined here actually subscribed.

From my brief description of the evolution of the contents of this book the astute reader will already know that, in at least one important respect, the research for it did not proceed according to the conventional canons of historicism. That plan was rudely interrupted by my own sheer ignorance about the history of concept formation in criminology. Allow me to elaborate. For a considerable period of time I have assumed, as have all other scholars to my knowledge, the validity of the hallowed distinction drawn between positivist criminology and the dominant discourse about crime that preceded it, namely, "classical criminology." In unfolding the contents of this distinction, I believed that positivist criminology was originally a multifaceted, nineteenth-century discourse based on economism, biologism, mental hereditarianism, and so on and that its chief objects ("criminal man," "criminality" and "criminal character") were demarcated by pre-given epistemological boundaries dividing the "normal" from the "pathological." Classical criminology, in contrast, has been universally assumed to be a mid- to late eighteenth-century discourse couched in the rhetoric of classical jurisprudence; its chief object, as demonstrated in the works of Beccaria, Bentham, Romilly, and others has been held to be the construction of a rational and efficient penal calculus directed to the actions of the volitional legal subject. Some scholars nowadays suggest, moreover, that because concepts such as "crime," "criminal," and "criminality" were absent from their epistemological universe, classical criminologists such as Beccaria and his followers were not representative of a criminology of *Homo criminalis* as such. As Foucault declared, while referring in *Discipline and Punish* to the era of classical criminology not only in France but also apparently everywhere else, "One will have to wait a long time before *homo criminalis* becomes a definite object in the field of knowledge."² Following Foucault, it has been variously suggested that because their concepts were directed to "*Homo penalis*," the labors of Beccaria and his school should be categorized as either "classical penology" or "administrative penology" or even "a theory of social control."³

In Chapter 2 I take issue with such rigid distinctions between classical and positivist criminology, and I do so in part by rejecting the assumption that classical texts should automatically be relegated to criminology's prehistory. My argument engages this issue by reconsidering the merits of the key text in the development of classical criminology, namely, Beccaria's short treatise *Dei delitti e delle pene* of 1764. I focus on this text—rather than, say, on one by Jeremy Bentham—because descriptions of classical criminology invariably concentrate on the life and labors of its anonymous author, Cesare Bonesana, Marchese di Beccaria (1738–94), and because, as I argue here, the discursive objects of Beccaria's famous treatise have by friend and foe alike been persistently misrepresented. However, I do not thereby dispute the momentous practical effects exerted in Europe and colonial America by Beccaria's book, the extent of which is indicated by Durkheim's confident assessment "it is incontestably the case that it was . . . *Of Crimes and Punishments* which delivered the mortal blow to the old and hateful routines of the criminal law."⁴ Nor will I suggest that *Dei delitti e delle pene* is to the history of criminology what the Piltdown Man hoax is to the history of physical anthropology.

My thesis about *Dei delitti* unfolds in four stages. First, I claim that in the last two hundred years the predominant images of *Dei delitti* have been constructed more in terms of its practico-judicial effects than in terms of its actual discursive features. Instead, I argue, second, that the persistent misrepresentation of Beccaria's arguments in *Dei delitti* is actively encouraged by the ambiguity of many of the author's own positions and by the obscure and secretive style of much of his prose—common enough textual practices in the dangerous publishing conditions that existed during much of the Enlightenment. Only with considerable difficulty, therefore, can the nature and intended objects of Beccaria's discourse be discerned. Third, I try to show that Beccaria's chief object in *Dei delitti* was the application to crime and penal strategies of the "science of man," a deterministic discourse implicitly at odds with conventional assumption about the exclusively humanist and volitional bases of "classical criminology." In making this claim, finally, I fundamentally challenge the existing interpretations of the context and object of Beccaria's book. It is a corollary of

my argument that those modern-day criminologists who adhere to models of human agency based on "free will" and "rational choice" must look to some discourse other than Beccaria's to discover their intellectual ancestry.

Chapters 3 and 4 both demonstrate that the key concepts of positivist criminology developed in France and Belgium from some of the focal concerns of the domains of penality and of the statistical movement. During the Restoration (1814–30) these concerns coincided in the issue of the regulation of the "dangerous classes." This coincidence prompted the emergence of "social mechanics" and of "moral statistics," and it informed much of their conceptual content and explanatory structure. It appeared most forcefully in the positivist discourse of the pioneering thinkers Adolphe Quetelet (1796–1874) and A. M. Guerry (1802–1866). The object of that discourse was the construction of generalizations about the nature of criminal behavior and of criminals. Eventually, in some influential quarters, that object was transformed into a search for *Homo criminalis*, an abnormal being whose characteristics derived from a multiplicity of domains.

My intention in Chapter 3 is chiefly to identify Quetelet's own particular contribution to the rise of positivist criminology. I begin this by means of an outline of the historical context of the genesis of Quetelet's oeuvre, namely, the conjunction of the apparent failure of French penal strategies and the expansion in the scope of the statistical movement to include empirical social research. I then uncover Quetelet's method of inquiry and the structure and content of his criminology. Quetelet, an astronomer, believed that the discourse of celestial mechanics could be used to detect empirical regularities both in criminal behavior and in the personal characteristics of those who committed crimes. The nature of these regularities Quetelet investigated with a panoply of new concepts, including the constancy of crime, criminal propensities, the causes of crime, and the "average man." Implicit in Quetelet's writings is the existence of a full-fledged *Homo criminalis*, a being among whose attributes is a variety of abnormal characteristics that derive from the domains of the social, the body and the mind.

Chapter 4 identifies the influence of the movement in social cartography on concept formation in criminology, especially as this was manifest in the labors of the French moral statistician A. M. Guerry. As

the necessary background to Guerry's book *Essai sur la statistique morale de la France* of 1833, the chapter outlines the conceptual and technical innovations of French cartography from the late seventeenth century to the Napoleonic era. Epistemologically akin to Quetelet's positivist "social mechanics of crime," Guerry's "social cartography of crime" was erected on the erstwhile facticity of *cartes thématiques* ("thematic maps"). Guerry believed that these condensed statistical images could serve as aids in the factual presentation of given classes of empirical social phenomena. His analysis of crime, such as it was, involved descriptive commentary based on the use of shaded maps that portrayed crime rates. With the aid of several thematic maps, Guerry developed significant positions on the methodology of official crime data, on economic development and crime rates, and on levels of education and crime rates, the last of which provoked great controversy among British social statisticians during the 1830s and 1840s.

Chapter 5 is a foray into a neglected but nevertheless important area in the intellectual history of criminology. Its primary focus is the writings of Gabriel Tarde (1843–1904), an elusive figure who was tremendously influential in his own time yet whose criminology was quickly lost in the even wider acclaim then accorded his contributions to political philosophy and social psychology. Several consistent lines of inquiry in Tarde's considerable discourse on crime are explained in this chapter. These include his virulent opposition to biological positivism, his attempt to transcend the crude scientism of the Franco-Belgian moral statisticians, and his debate with Durkheim about the putative normality of crime. I suggest that Tarde's engagement in these debates contributed to a protracted, neoclassical compromise in criminology whereby, to a certain extent, the volitional subject of classical jurisprudence was rescued from the dominance of the positivist revolution.

More so in Tarde's case than in that of any other major figure in the early history of criminology, the identification of his criminology has been notoriously susceptible to the tendency to reconstitute past intellectual history according to the dominant concerns and perspectives of the present. This "presentist" tendency has been encouraged, I suggest, both by the inconclusiveness of his debates with Durkheim and, even more so, by Tarde's unwillingness to align his discourse either

with the voluntarism or with the determinism that dominated the field of criminology in the late nineteenth century.

In the history of positivist criminology few texts have commanded such gargantuan esteem as *The English Convict*, a lengthy methodological landmark of 1913 written by the English prison doctor Charles Goring (1870–1919), and whose several concerns are examined in Chapter 6. In this chapter I identify the ways in which Goring's methodology and findings were decisively swayed by the British movements in mathematical and evolutionary zoology, in statistics, and in eugenics. In so doing I attempt to reconsider the merits of *The English Convict's* critical engagement with the Lombrosian notion of the "born criminal." I claim that the effects of *The English Convict* on the subsequent development of the criminological field—especially in Britain and the United States—should not be considered a progressive advance on Lombrosianism. In refuting certain aspects of the notion of the born criminal, while lending support to others, *The English Convict* advanced an ambiguous argument about *Homo criminalis* not in opposition to Lombrosianism but in parallel to it.

In collecting and presenting the material in *Inventing Criminology*, I have tried to steer an appropriate path between the disembodied abstractions of structuralism and the hagiographies of the founding fathers. To put this caveat another way, each chapter opposes two sorts of conventional claims about the understanding of concept formation in criminology, one externalist the other internalist. Against externalist claims, on the one hand, I suggest that the origins of the conceptual content and explanatory structure of criminology cannot adequately be understood either as mere representations of the power relations peculiar to modernity or as unmediated expressions of the epistemological divisions wrought by state practices in the asylum, the clinic, and the prison. The whys, hows, and whens of the invention of concepts and ideas, in other words, can never be understood properly if one approaches them as being parasitic on external events. Against internalist claims, on the other hand, I suggest that the key concepts and discursive techniques of criminology were not invented and did not develop as logical or even inevitable products of scientific development. Nowhere, therefore, do I assume that any of the explanatory claims of

criminology—of positivist or any other sort of criminology—necessarily has any objective truth.

Although the present book tries to mine some unexcavated territory in intellectual history, I do not claim that the chapters of *Inventing Criminology* comprise even additively the basis of a coherent account of concept formation in criminology. My intentions here are far more limited than that, my methods too undisciplined, and my interests too eclectic. Moreover, I believe that there is no transcultural, quasi-scientific stock of knowledge about crime and penalty whose truth can somehow be identified, agreed upon, and filed away as authoritative. There is an almost endless number of still-to-be-written histories of concept formation in criminology: concepts that were invented in this culture, by thinkers in those strata, in that period of time, for these reasons, and with those effects. What follows here are modest slices carved from those would-be histories.

Notes

1. Durkheim, *Suicide: a Study in Sociology* (1897), p. 300.

2. Foucault (1979), *Discipline and Punish: the Birth of the Prison*, p. 102.

3. For example, David Garland argues that it is altogether misleading to designate the work of writers such as Beccaria, Voltaire, Bentham, and Blackstone as criminology: "Their work is essentially the application of legal jurisprudence to the realm of crime and punishment, and it bears no relation to the 'human sciences' of the nineteenth century that were to form the basis of the criminological enterprise" (1985a, *Punishment and Welfare: a History of Penal Strategies*, pp. 14–15). Similarly, see Taylor, Walton, and Young (1973), *The New Criminology*, pp. 2–3; Foucault (1979), p. 102; Foucault (1988), "The Dangerous Individual"; Pasquino (1980), "Criminology: The Birth of a Special Savoir," pp. 20–21.

4. Durkheim (1901), "Two Laws of Penal Evolution," p. 113. See also *inter alia*, Phillipson (1923), *Three Criminal Law Reformers: Beccaria/Bentham/Romilly*, pp. 89–106; Maestro (1942), *Voltaire and Beccaria as Reformers of Criminal Law*, pp. 124–51; Paolucci (1963), translator's introduction to Beccaria's *On Crimes and Punishments*; Venturi (1971), *Utopia and Reform in the Enlightenment*, pp. 100–116; Young (1984), "'Let Us Content Ourselves with

Praising the Work While Drawing a Veil Over Its Principles': Eighteenth-Century Reactions to Beccaria's *On Crimes and Punishments*"; and Young (1986), "Property and Punishment in the Eighteenth Century: Beccaria and His Critics."