



Medicalizing delinquents or turning the mad into criminals?: Practices of alienation and legal medicine in Colombia in the early the 20th century

¿Medicalizar al delincuente o hacer del loco un criminal?: Prácticas de alienismo y medicina legal en Colombia a comienzos del siglo XX

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ABSTRACT This article analyzes medical-legal associations between madness and criminality in department of Antioquia (Colombia) during the three first decades of 20th century. The analysis was oriented by two overlapping axes: discourses and practices. The ideas of four doctors, generated between 1917 and 1925, were examined in order to identify the theoretical debates that delimited and defined mental illnesses in legal cases. The use of qualified knowledge and their place as experts were analyzed in a judicial case, initiated in 1921, in which theoretical confrontations surfaced among the doctors that debated the possible insanity of the defendant.

KEY WORDS Forensic Medicine; Criminals; Medicalization; Malingering; Mental Disorders; Colombia.

RESUMEN Este artículo analiza algunas asociaciones médico-jurídicas entre locura y criminalidad en el departamento de Antioquia (Colombia), en las primeras tres décadas del siglo XX. El análisis se orientó por dos ejes imbricados: el de los discursos y el de las prácticas. Se examinaron las ideas de cuatro médicos, planteadas entre 1917 y 1925, para identificar los debates teóricos desde los cuales se delimitaban y definían las enfermedades mentales en casos judiciales. La puesta en escena del saber de los peritos y su lugar como expertos se analizaron en un caso judicial, que inició en 1921, y en cuyo desarrollo afloraron las confrontaciones teóricas entre los médicos que debatieron sobre la posible locura del acusado.

PALABRAS CLAVES Medicina Legal; Criminales; Medicalización; Simulación de Enfermedad; Trastornos Mentales; Colombia.

INTRODUCTION

The association between madness and criminality has been addressed from different perspectives, among them, the study of the different types of knowledge and practices that have helped to make crime a symptom and the criminal a patient.⁽¹⁾ In this regard, in the Latin-American literature (Chile, Argentina, Mexico, Brazil, and Spain) there are research studies concerned with the processes of reception and appropriation of theories that have contributed to conceiving certain mentally ill individuals as criminals and vice versa. The authors agree on the importance that the criminal acquired as the subject matter of several medical specialties, such as psychiatry, forensic medicine, criminology, and forensic psychiatry, which promoted the construction of a common enemy validated by arguments qualified as scientific.^(1,2,3,4) By studying judicial cases, other researchers describe the evaluations rendered by expert professionals as a scientific instrument and as one of the legitimate sources of medico-legal knowledge.^(5,6)

The review of the literature also helps to identify the implicit bond that exists between the behavior of certain individuals and the danger they pose to themselves and to society. Based on this association, there were stigmatization processes toward marginalized groups (paupers, tramps, beggars, immigrants) on whom practices of control were exerted in order to protect the social body. In this regard, the existence of social sanitation practices, as well as institutional actions aimed at population groups prejudged as "dangerous"^(7,8) were also identified.

In Colombia, the interest of several researchers in madness as a historical, social and cultural reality is quite recent and the academic works on the subject seem to have boomed in the last two decades.^(9,10,11,12,13,14) As a point in common, researchers agree on including madness as a feature of the different population groups that posed a social problem (tramps, beggars, paupers, and criminals). Madness was associated with the consumption of alcoholic drinks,^(11,15) with

illnesses such as syphilis⁽¹⁶⁾ and with social circumstances such as poverty and squalor.⁽¹⁴⁾

Among the containment measures against the mentally alienated, there were, initially, police actions and imprisonment.^(17,18,19) The research studies centered on the institutions specialized in the control of the mentally ill recognize that the creation of these spaces had social rather than therapeutic aims, such as getting madness out of the streets, prisons, and hospitals.^(12,13,17,18,19) In this sense, it is understood that the clinical knowledge about mental conditions was not a consequence of the establishment of mental asylums.

The processes of professionalization of medical specialties such as psychiatry occurred later in time,^(20,21,22) given that, until well into the 20th century only a few "Quixotes [...] were interested in learning about mental illnesses and mentally ill patients."⁽²¹⁾ Among the doctors interested in psychiatry or forensic medicine were Guillermo Uribe Cualla, Luis Jaime Sánchez, Pablo A. Llinás, Carlos E. Putnam, and Leoncio Barreto.⁽²³⁾ The lives and works of many of these doctors were studied separately as was the case of Miguel Jiménez López,^(24,25) Edmundo Rico,⁽²⁶⁾ and Laurentino Muñoz Trujillo.⁽²⁷⁾

In the first two decades of the 20th century, the idea of a progressive degeneration of the Colombian race came to the forefront, especially after the public debate held in the twenties at the heart of a group of liberal and conservative intellectuals: Luis López de Mesa, Miguel Jiménez López, Calixto Torres Umaña, Jorge Bejarano, Simón Araújo, Lucas Caballero, Rafael Escallón, among others.^(25,28,29,30,31) The debate on the degeneration of the race in Colombia was understood by several researchers as the reflection of the direct action of the State to "implement a new social order based on its key constitutive element: the citizen."⁽³⁰⁾ Alternatively, other researchers understood it as the "debate of many Colombian intellectuals, [...] who not only were members of the government but also the major opposition to the government of Marco Fidel Suárez in 1920."⁽²⁵⁾

Going beyond the interpretations, those who took part in the lectures delivered in the

Municipal Theater of Bogotá in 1920 set forth the causes and perspectives of the future of the Colombian population by highlighting, in favor or against, the prejudices based on biological and geographical determinisms.⁽²⁵⁾ With regard to criminality, the metaphor of the human body and the organism as a way of explaining the functioning of society had an impact in the definition of medical terms, in the attempts at explaining the high rate of criminality and in the typification of certain crimes. The geography and climate of the areas as well as the features acquired by degenerate inheritance were part of the causal explanations of illegal acts.⁽²⁹⁾

Finally, several judicial cases, which were famous for the impact they caused in Medellín and Bogotá, have been thoroughly analyzed. Among them is the crime of Aguacatal, in 1873,⁽³²⁾ the crime of the Count of Cuchicute, between 1931 and 1938,⁽³³⁾ and the homicide committed by Jorge Zawadzky, in 1935.⁽³⁴⁾ In these crimes, the participation of medical experts and the importance of the medico-legal report are interpreted either as a consequence of medical intervention in legal issues^(23,28,35) or as an instrument to modify the course of legal processes.⁽³⁴⁾

SCIENTIFIC-MEDICAL DEBATE CONCERNING THE LEGAL LIABILITY OF THE CRIMINAL

The interest of the Colombian society in the phenomenon of madness in the 19th century was based on the medico-legal field. One of the explanations for this interest might have been that the medical experts were familiar with certain psychiatric concepts when assessing the mental status of an individual.^(23,36) This is reflected by the fact that the first asylums specialized in mentally alienated individuals were established from 1870 onward, while the participation of physicians in trials had begun earlier.^(17,18,19) If compared in a diachronic sequence, the reports concerning mental illness required an increasingly specialized expertise in mental illnesses; it was

not about implanting foreign theories or concepts, but about the local assimilation of foreign models which had been “reconceptualized.”⁽³⁷⁾ This led to redefining, specifying and reorganizing concepts, models, theories and questions from several fields related to mental illness. In the first three decades of the 20th century, physicians such as Fidel Regueros, Hipólito Castro, José Eliseo Avelaneda, Primitivo Balaguera, Julio Ortiz, and Luis Carlos Montoya, who were interested in proposing theoretical-practical models, published their ideas on legally related psychiatric nosology in dissertations and articles.

At the end of the 19th century, in Colombia, the models that prevailed in the study of individuals were those taken from the natural sciences, evidencing different types of social, biological and environmental determinisms,⁽³⁸⁾ based on the philosophical positivism of Auguste Comte (1798-1857) and on the biological evolutionism of Herbert Spencer (1820-1903).⁽³⁹⁾ In the field of forensic medicine, studies such as Cesare Lombroso’s (1836-1909) and the Italian School of Positivist Criminology contributed to medicalizing the delinquent, but also identifying certain patients as criminals. The Italian doctor had become interested in psychiatry very early in his life. His ideas were crucial for the configuration of a new perspective of knowledge about the delinquent that explained that certain criminal physical behaviors were the result of an individual’s physical constitution.⁽⁴⁰⁾

Moreover, the theory of the degeneration of the human species, proposed by the French alienist Bénédict Augustin Morel (1809-1873), led to establishing a variety of “anomalies” to identify potentially harmful behaviors.⁽⁴¹⁾ Morel studied in Paris, where he showed an early interest in the research of mental illnesses. Although he was influenced by the evolutionist theories to understand the relationships between nature and society, he did not abandon his Catholic faith when he proposed the idea of a perfect, original “Eden man” from whom humans were descended but, from one generation to the next, suffered the transmission of “sickly” deviations.⁽⁴²⁾ In his theory of the degeneration of the human

species, he focused on understanding the causes of madness based on hereditary factors, minimizing the symptoms.⁽⁴⁰⁾

Throughout the process of the institutionalization of forensic medicine in Colombia, explanatory models such as Lombroso's and Morel's were part of the dissertations on mental illnesses. This opened up the possibility of assuming that certain behaviors were a feature of the alterations of the mind, without considering them as a state of full-blown insanity.

The medical debate on the determinisms based on Lombroso's theory raised criticism about the foreign models on which his theory was based, as they did not adjust to the local models. Physicians Antonio Blanco and Antonio Merlano explained in 1919 that the European anthropometric data were not applicable to the ethnological conditions of Colombia and considered that "the hereditary defects, with the manifestations of alcoholism, morphinism, syphilis, epilepsy, tuberculosis"⁽⁴³⁾ were more relevant. In 1925, Guillermo Uribe Cualla also supported this criticism because the descriptions of Lombroso's born criminals were not comparable with Colombian delinquents:

... we see common faces in our indigenous race and, although they atavistically preserve their ancestors' defects, they are, however, individuals that would not have committed crimes in another setting.⁽⁴⁴⁾ [Own translation]

Nevertheless, madness understood as a synonym of irrationality reached a turning point when abnormal behaviors were included in the spectrum of mental alterations.⁽⁴⁵⁾ The main topic of discussion, in this case, was the legal liability of individuals suffering from gradual alterations of the mind.^(44,46) When comparing the ideas published by Uribe Cualla in 1925 with those of Gil Juvenal Gil in 1917, a few coincidences, which persist in time, were found. Both authors shared an interest in forensic medicine. Gil Juvenal Gil Madrigal (1884-1948), who was born in Yarumal, studied medicine in Medellín, at

the Universidad de Antioquia and graduated in 1907 from Columbia University in the City of New York as well. He specialized in gastroenterology, surgery, and gynecology, and was a professor of External Clinical Pathology and Forensic Medicine at the Universidad de Antioquia.⁽⁴⁷⁾ As for Guillermo Uribe Cualla (1895-1984), he obtained his undergraduate degree from the National School of Medicine [*Facultad Nacional de Medicina*] in Bogotá in 1920. He worked at the Forensic Medicine Institute of Colombia (former Medico-Legal Office) [*Instituto de Medicina Legal de Colombia (antes Oficina Médico-Legal)*] for fifty years and was professor of Forensic Medicine in the schools of law and medicine of several universities in Bogotá.⁽²¹⁾ In 1934, he published the first edition of his book, *Medicina legal y psiquiatría forense* [Forensic Medicine and Forensic Psychiatry], which had several reprints. He was also the founder of the *Revista de Medicina Legal de Colombia* [Colombian Journal of Legal Medicine] in 1953.

In his article from 1917, medical doctor Gil Juvenal Gil reaffirmed the criticisms that other colleagues had previously made,^(48,49) one of which was that, both in ordinary and judicial language, words such as madness and dementia were used as synonyms. Gil highlighted the fact that such a misunderstanding was typical of those who expressed themselves without considering the medical theory that differentiated dementia, or "the overall decline in all the mental faculties,"⁽⁴⁶⁾ from madness or "the manifestations of words or actions of a mental illness or defects of the mind."⁽⁴⁶⁾ According to Gil, between healthy and mentally ill individuals existed "an infinite range of types that, starting from normal, go through an intermediate area."⁽⁴⁶⁾ He added that few individuals "are physically and mentally perfect, and that we all carry some type of mental disorders."⁽⁴⁶⁾

Moreover, Uribe Cualla explained in his article that in "the large scale ranging from the completely normal [...] to the abnormal being,"⁽⁴⁴⁾ specific manifestations should be studied in the light of psychiatric knowledge in order to define the liability of those involved. Thus, the type of "intermediate

minds" introduced the idea of the "abnormal," which included individuals on whom the mental disorders "do not exceed the boundaries of insanity."⁽⁴⁴⁾

With regard to social danger, both authors agreed that criminals suspected of having mental disorders could experience temporary, impulsive, momentary, repeatable future events, which would constantly threaten society, adding a latent chronicity to these conditions.^(44,46) Considering this, Gil's suggestion was that these individuals should be confined in a special institution, other than an asylum, in which only the doctors in charge would be entitled to authorize their discharge solely after they are completely cured.⁽⁴⁶⁾ Similarly, Uribe Cualla considered it a priority to create an institution exclusively for "abnormal criminals" who, due to their "condition," were "incapable of living in society with normal human beings."⁽⁴²⁾ This type of asylum would have a double function: defending society from the danger that these individuals represented (by excluding and confining them) and, at the same time, providing a scientific treatment to inmates.

In this respect, when trying to determine the judicial liability of the defendants, the key point for medico-legal experts was the evaluation of their criminal minds and will, given that they were abilities that might be clouded, partially affected or completely sound as Gil claimed

...if the reports of the medico-legal experts who had exhaustively and carefully evaluated the criminal confirm that the individual was mentally ill at the time of the illegal act, was already suffering from declared madness or from pathological states that temporarily affected the individual's mind, notwithstanding the fact that the accused may be morally sound at the time of the trial, the judge is morally compelled to declare the individual innocent of committing the crime.

⁽⁴⁶⁾ [Own translation]

Uribe Cualla held that both the "deterministic and Lombroso's theories"⁽⁴⁴⁾ were not

viable, as they did not acknowledge many causal factors of human acts. The expert had to consider the multiple causes that explained the behavior of the criminal in order to distinguish whether the criminal actions were the result of a state of "abnormality" although, when judged against common sense, the individual was "normal."⁽⁴⁴⁾ The last point discussed by these doctors (Gil and Uribe Cualla) was that of malingering, the deception to which the medical legal expert is exposed when a criminal "pretends to suffer from mental disorders or [...] the lawyer who wants to use this strategy to save his client."⁽⁴⁶⁾ This last topic is illustrated below with a legal case.

THE MEDICO-LEGAL EXPERT OPINION AND ITS ARGUMENTS IN THE CASE OF A PURPORTED MALINGERER

In this legal case, two ways of explaining the same sudden state of "mental alteration"⁽⁵⁰⁾ were presented. One of the points at the center of the debates and explanations was precisely malingering. The file includes the evaluations carried out by officially appointed experts and the concepts presented as external consultancy of the doctors of the Departmental Asylum of Medellín in 1924. In view of the conflicting opinions, the judge requested an agreement between the parties to render a final verdict, but the parties continued to develop their arguments until the end.

The facts of the case were presented on April 24, 1921 in the District of Andes (Antioquia) and involved a dispute between two spouses, Pedro and Magdalena. At one point, the argument seemed to end because Magdalena suffered a "serious concussion"^(50, f.1) that left her unconscious. The following day, the victim was taken to the hospital of Concordia, but died shortly after, having identified her husband as the attacker before dying. Pedro was cross-examined twice: the first time, he denied having had any argument with his wife; the second time, he admitted that on

that day he was hungry when he got home and had asked his wife to give him some food and that, during the altercation, he had grabbed her by the neck and had thrown her against the millstone. He was then taken to the Andes (Antioquia) prison as the potential offender.

In prison, the other inmates complained about the “mental alienation” that Pedro was violently exteriorizing and, in view of the danger that he exhibited, they requested that Pedro be transferred to an asylum. For this purpose, the medical experts Victoriano Toro E. and Arturo García examined him and said that they had found “various alienation symptoms.” They described his behavior as follows: “thoughtful and absorbed in his thoughts,” melancholic, violent, with “episodes of impulsive behavior,” followed by “calm” periods with “incoherent” ideas, insomnia, and “intermittent anorexia.”^(50, f.34) The experts’ report suggested that Pedro should be transferred with just cause to the departmental asylum:

...Mr. Piedrahita cannot continue living with the rest of the inmates, in such uncomfortable and deficient prison facilities such as those in the prison he is in today, [...] he must be taken to the Departmental Asylum where he will not only receive the treatment that his health requires but will also be systematically evaluated by alienist doctors, who, with the data contained here and the data provided by the Mayor of Salgar, may complete his evaluation and decide on Pedro’s moral and legal liability.^(50, f.34)
[Own translation]

The judge summoned a few witnesses and requested the opinion of two official experts to determine the mental status of the accused. The questioned witnesses denied any overt mental alienation symptoms in Pedro or his relatives:

I have known Pedro for a long time [...] I have never noticed the slightest symptom of madness or dementia in him, on

the contrary, he has always seemed to me an extremely sound and motivated person and his relatives are not mad nor insane, they are all sane and healthy people, they are not even alcoholics, because they have never drunk alcohol.^(50, f.36v) [Own translation]

He is a completely sound and healthy man, and there are not and have never been mad or insane people in his family.^(50, f.37-37v)

Jorge Sáenz and Luciano Restrepo, the men who served as medical experts, concluded, by using the testimonies of the preliminary hearing, that “Pedro was in full possession of his mental faculties when he committed the crime.”^(50, f.40) After visiting the asylum to examine Pedro, these doctors declared the existence of “multiple congenital anomalies, although probably not hereditary”^(50, f.40) nor sufficient to explain the “rapid onset of mental alienation few days after” the events occurred.^(50, f.40) This evaluation generated doubts in the doctors with regard to Pedro’s insanity and they declared that Pedro was probably a malingerer.

Upon the presentation of the experts’ reports and a visit to the defendant in the asylum, the case prosecutor requested the testimony of the doctors in charge of the institution – Lázaro Uribe Calad and Bernardo Ferrer. The judge consented to this petition and disqualified the report made by forensic experts Sáenz and Restrepo, stating that there was “[no] clinical record to support it, it was not based on any medical-legal reasoning [...] and there was a lack of scientific premises.”^(50, f.41)

Uribe Calad, a medical doctor and director of the departmental asylum, described Pedro’s behavior in the clinical record as withdrawn, spatially and temporally disoriented, suffering from advanced malnutrition, mutism, and “stigmas” of degeneration.^(51, f.1) The diagnosis for his condition was “acute melancholy,” with “lucid periods” which could last for several days.^(50, f.44) In the section of the clinical record titled “Observations,” it

was highlighted that he gave “incoherent responses” accompanied by “*lucid moments*” (emphasis on the source),^(51, f.1) in which Pedro spoke about his past life and the fateful events that took place in his home and whose outcome was the death of his wife.

Uribe Calad and Ferrer were against the malingering theory and assured that Pedro, who had been in the asylum for six months, was an alienated patient. They considered that six months were enough to make a thorough observation and to conclude that there had not been any malingering whatsoever. They highlighted the report made by doctors Toro and García (medical experts at the prison), which had made it possible for Pedro to be transferred to the asylum and served as proof of the defendant’s alienation. A physical examination was performed, in which the typical stigmas of physical degeneration such as “facial asymmetry [...], the special facial and cranial configuration, and exaggerated upper limb length relative to the individual’s height” were shown.^(50, f.42v) The examinee’s behavior revealed an illness as well. Toro and García spoke of intermittent states of awareness and lucidity, in which Pedro had expressed that he preferred to “be transferred to prison to serve his sentence and to get actual work done.”^(50, f.43) The latter served as an indicator to doubt that Pedro was a malingerer, as, if he was faking his madness, his preference for prison over the asylum was not consistent.

Although Uribe Calad and Ferrer thought that there was a possibility that he had not been “alienated” on the date of the incident, it was necessary to consider the “physical and perhaps mental”^(50, f.44) degeneration as a predisposing factor for a homicidal impulse which, in this case, had led him to act in the manner he had done with Magdalena. In addition, his hunger could also be taken as a “predisposing factor [...] for acting impulsively.”^(50, f.44v) Finally, they suggested looking for a history of epileptic seizures and raised the following question: “Could Pedro’s criminal act be the first manifestation of a psychopathy that lay dormant in this individual who was so predisposed to it?”^(50, f.44v)

The prosecutor recommended the judge to take into account, at the time of the sentence, the report submitted by “the distinguished Dr. Bernardo Ferrer and the eminent and renowned professor Dr. Lázaro Uribe [...] a true expert in the field,”^(50, f.45) especially as they had had “greater and better opportunities to examine and observe the accused.”^(50, f.45)

In view of the contradictions in the expert reports, “a malingerer for some experts and an alienated individual for others,”^(50, f.56) the judge dismissed the first report of the official medical experts, Sáenz and Restrepo, on the ground that it gave a superficial account of the facts, urging them to submit a new report,^(50, f.56) as their testimony was the one that constituted legal evidence and not those of asylum doctors Uribe Calad and Ferrer. Sáenz and Restrepo submitted the new report individually.

In the second report, Jorge Sáenz stuck to his testimony of the preliminary hearing. He considered the inconsistencies between the accused’s first and second statements as to his version of the events, which proved how “conscious, thoughtful, and free”^(50, f.50) he had been at the time of the incident. The absence of an insanity history in Pedro’s family led doctor Sáenz to believe that his physical “anomalies” were “congenital, but not hereditary; [...] brought about by accidental gestational disorders during his mother’s pregnancy, without any of Pedro’s parents or their ascendants suffering from any communicable morbid conditions.”^(50, f.50) Several witnesses^(50, f.1, f.3, f.19, f.16) declared that Pedro used to be jealous of his wife and that the couple had other marital disputes in the past. Hence, it was in the light of this information that it could not be assumed that what happened on the day of the incident was Pedro’s unpremeditated action, as he had acted “within a perfect cause-effect pattern.”^(50, f.53) For Sáenz, mentally ill individuals acted without a cause, guided by a “fixed idea, a hallucination, an illusion, a delirious idea or sheer delirium,”^(50, f.50) without measuring the consequences of their actions and with no feeling of guilt. For this doctor, however, the facts in question did not fit this description.

Sáenz did not deny that Pedro was “mentally disturbed,” but the coincidence that the symptoms developed while he was in prison and not before was probably due to a “cruel remorse”^(50, f.50) and not to a pre-existing mental illness. When referring to the “brilliant statement made by the distinguished doctors Uribe and Ferrer,”^(50, f.47) he mentioned that the “physical anomalies” were not explanatory of Pedro’s mental state at the time of the incident. Although he did not make a point on the malingering issue, he did clarify that Pedro was conscious of his actions and therefore, he was liable for them.^(50, f.47)

The statement made by Luciano Restrepo complemented Sáenz’s with a tone that the judge considered to be “ironic and angry [...] inappropriate in this setting.”^(50, f.57) This doctor added that “despite not being an expert in mental illnesses, he could apply his knowledge of medicine”^(50, f.54) to highlight the contradictions between his colleagues. His report focused on refuting their conjectures one by one and questioned the professionalism of the alienists who were deceived by the inmate. In response, Uribe Calad and Ferrer stated that Restrepo’s words were for them “bouts of irony [...] they lacked professional nobility [...] they were inappropriate and biased phraseology.”^(50, f.60)

It was crucial to elucidate, according to the law, Pedro’s state of mind on the day of the incident, as “those who were in a true state of dementia or insanity at the time in which they committed the criminal act were excusable and not subject to any penalty.”⁽⁵²⁾ Although all four doctors who gave their opinion on the case agreed on the possible state of mental alienation of the accused, a disagreement persisted with regard to the time of the disease onset, a situation which the judge needed to clarify. The prosecutor demanded that, in view of the disagreement that existed among the doctors (Sáenz, Restrepo, Uribe Calad and Ferrer), they all had to examine the convict directly in order to elaborate a unanimous expert opinion.

The last assessment to be handled by the asylum doctors (Uribe Calad and Ferrer) focused on defending themselves from the

criticisms they had received. They ratified and defended their previous medical statement. They acknowledged and explained that there were “mental or interrupted reflex impulses,”^(50, f.59) which did not have to be immediate as exposed by Dr. Sáenz, characterized by a struggle to inhibit the impulses within a person’s “ideo-emotional”^(50, f.59) domain; in addition, hunger defined as “a food craving or need to eat”^(50, f.59) was characteristic of a physiological state that could lead an individual to experience “impetuous fits of rage,”^(50, f.60) as could have occurred in the defendant’s way of acting. The case was closed with Pedro’s sudden death in the asylum.

FINAL CONSIDERATIONS

From the study of the case file we were able to partially recreate a scenario of practices where it was evidenced that there were conflicts between the experts as a result of their various strategies for handling the evidence. The debate that arose during those first years of the 20th century helped us advance in certain reflections on the scope of knowledge of the experts and the question of the liability of those who were suspected of suffering from insanity in cases such as that presented in this study. First, there is the value attributed to the expert’s opinions above other evidentiary proceedings such as testimonies, in which there was unanimity from the witnesses indicating absence of an insanity history in Pedro. Second, the judge’s objection to the first official expert opinion (Sáenz’s and Restrepo’s), on the ground of its lack of “scientific bases,” partly reveals what was expected from this type of evidentiary action. Third, the prosecutor’s decision to also consider the opinion of the asylum doctors may indicate that compliments and overestimations were part of the strategies to guide the sentence in favor of the idea that the defendant was suffering from a mental disease. In this case, a way out of the contradictions between the expert opinions was sought by weighing the experts’ personal qualities, such as their professional

reputation or prestige, to either disqualify or validate their opinions. This situation was present in other judicial cases, in which the accused's malingering led experts to skillfully argue to try to convince the remaining parties of the authenticity of their knowledge⁽⁵³⁾:

...the proceedings necessary to uncover an insanity malingerer depend less on the truth about the illness than on the doctor's mistrust. What seems to be true is that each expert could define a series of tricks depending on the case and type of malingering suspected.⁽⁵³⁾ [Own translation]

The opinions regarding Pedro's mental status were subjects of debate. Among the diverse sides there was an attempt to argue from knowledge. Different scientific perspectives were identified. For instance, when considering impulsive acts which were understood by Sáenz and Restrepo as automatic and untimely processes, in contrast with the opinion of Uribe Calad and Ferrer, who explained those acts as not necessarily immediate and with internal mental struggles underlying them.

This criminal process helped to differentiate two fields of knowledge which could be present at the same time: that of the official experts, in which case doctors Sáenz and Restrepo, not as "specialists" in mental illnesses, but as experts or forensic doctors, and the external concept presented by Uribe Calad and Ferrer, who, from the start, had the scientific investiture acquired from their respective positions. The medical opinions of the forensic doctors disqualifying the evaluations formulated by doctors from other "branches of medicine" were a strategy to support the idea of restricting this practice to the "specialists." In this respect, in 1931, Rafael Mejía described as "extravagant and anti-scientific [the] statements made by doctors [...] from other branches of medicine."⁽⁵⁴⁾ This way, scientificity was based on the expert's level of specialization.

The local appropriation of western medicine theories was not homogeneous among the doctors who were involved in medical-

legal issues, in which the definition of insanity was debated. Among the doctors who were part of this evaluation, it was possible to identify eclectic and flexible viewpoints prone to ascribing a criterion of scientificity to the requested examination, just as in the case described in this work.

The admission of the expert opinions in the judicial scaffolding was possible, partly, by the changes in the judges' viewpoints, who started to recognize insanity as a pathological condition with direct implications on the consciousness, volition, and free will, concepts which are transversal to Law. The medical expert joined the cross-examination as a specialist because of his "scientific" knowledge, with which he was to shed some light on the doubts of judges, jurors, and prosecutors. In judicial cases such as the case presented here, the status of truth of the enunciators was crossed by socially recognized qualities which strengthened the status of veracity of the expert opinions.⁽⁴⁵⁾ As for the theoretical knowledge and conceptual controversies on alienated delinquents, one of the shared aspects found in the theses and medical articles written by Colombian doctors at the end of the 19th century and early 20th century was the amalgam of causal theories on mental illnesses in criminal and civil matters.

The theoretical appropriation had nuances in the flexibility of certain notions. Although doctors were careful regarding the deterministic and materialistic ideas in vogue, the reception of these ideas was relative and, despite relating the anatomical constitution or physiological factors to pathological behaviors, a single etiological element (anatomical, physiological, hereditary, cellular) did not prevail over the rest.

In the judicial field, certain behaviors were defined as "abnormal," specifically atrocious acts which involved an internal disorder, regardless of the cause (psychological, organic, neurological, environmental). The consulted doctors recognized in their writings various causes which mediated between the actions of individuals.^(44,46) The advantage of these multiple causes of mental disorders

was the possibility of having a direct effect on the predisposing factors. In this sense, certain determinisms could serve as a basis for pessimistic stances with regard to the prevention and correction of mental illnesses, but other etiological positions would be rather optimistic with regard to a hygiene intervening in the social sphere through education.

This way, the possibility of naturalizing crime led to considering the delinquent as an object of study which demanded analysis of his or her human constitution. This is evident in the work carried out by the medical experts, “who will have to evaluate not only the subject’s rationality but also the rationality of the act, the set of relationships that bind the act with the interests, the calculations, the character, the inclinations, and the habits of the individual.”⁽⁵⁵⁾

The question on the relationships between medical knowledge and judicial knowledge with regard to madness is still open, particularly since we are dealing with social realities which are dynamic and subject to changes in the sociocultural context, the

different fields of knowledge, and the social and professional practices. This path must be maintained, as it helps to elucidate the ways in which we can grasp madness as our object of study from “objective” criteria of the medical and judicial sciences, while bringing us closer to the route leading to the understanding of certain individuals in our social reality.

Lastly, in the final drafting of the result of this research study, another question arises and remains open for future works *from the bottom up*, referring to the subjectivity of those individuals identified as insane or law offenders. In the search that was carried out, the explanations of defendants, the accused, and suspects regarding their own situation were not significant in the consulted files, and the judges, doctors, and witnesses were the individuals who provided the greatest amount of information. Conversely, the individuals who were directly responsible for their acts or their victims were readily taken into account for the elaboration of the experts’ report rather than for the clarification of the facts.

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