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## **Gabriel Tarde: The *Swallow* of French Criminology**

**Marc Renneville**

The beginning of the Third Republic in France in 1870 was marked by a striking series of events, including the brutal repression of the Paris Commune; the arrival of parliamentary politics; the establishment of compulsory State education; Divorce Law reform; the development of the railways; and the growing availability of affordable daily newspapers. In addition, from the 1880s onwards, these were joined by the onset of economic recession, and a heated debate about scientific progress. Crime and criminal justice were also widely discussed during this period, against a backdrop of what would soon become known as “the crisis of crime” (*crise de la répression*). One of the apparent symptoms of this “crisis” was a persistent rise in recidivism, a trend revealed by the government statistics published each year by the *Compte général de l'administration de la justice criminelle*. Political initiatives promising solutions to this “curse” abounded. In 1872, for example, a parliamentary committee was set up to investigate the prison system, and in particular the conditions in which juvenile criminals were detained. The committee’s report drew an alarming picture, and recommended as a matter of urgency the separate confinement of inmates. Between 1872 and 1885, a number of laws were passed aimed at tackling the apparent rise in crime. These included laws on public drunkenness (1873); the official adoption of the principle of separate confinement in France’s county prisons (1875); the transportation of recidivists (1885); the creation of parole (1885); and of the suspended sentence (1891). Finally, in 1877, two years after the passage of the legislation giving official sanction to the generalisation of separate confinement in France’s prisons, the *Société générale des Prisons* was created, with the aim of generating “parliamentary initiatives” in this area. Accorded charitable status in 1889, this learned society would remain, in the period to 1914, an important focus of reflection and debate as well as legislative proposals in the field of French penal policy.

During the same period, many scientists and other experts in the criminal justice field became convinced that in order to tackle crime successfully, it was essential to possess an objective, scientific understanding of what made criminals tick. Some of this group would be drawn into research involving the application of natural science paradigms to social questions, which in some cases led them to the conclusion that the solution to the political and judicial problem of recidivism lay in the creation of anthropological knowledge about the criminal. In short, that

what was needed was to establish the characteristics of a “criminal type”. This, it was reasoned, would make it possible to differentiate scientifically the “veritable” criminal from the criminally insane; an important issue, since the latter were not considered legally responsible for their actions, and thus exempt from incarceration.

By the 1850s, the phrenology of Franz Joseph Gall (1758-1828) was considered by most to be beyond the pale of legitimate science, but other scientific approaches emerged in an attempt to find answers to these questions. It was the era of the “great examination” (*grand examen*) of the French prison population. Doctors and anthropologists were no longer content to palpate the heads of wrongdoers; they now turned their attention to examining carefully every last detail and square centimetre of their subjects’ bodies. Prehistory and physical anthropology acquired an institutional structure in this period, borrowing their techniques from the natural sciences. In the field of psychiatry, the theory of “degeneration”, developed by Dr Benedict-Augustin Morel (1809-1873), gradually replaced earlier theories of moral insanity. The autonomy of mind and body, and the role of introspection, principles cherished by an earlier generation of “spiritual” psychologists, was now considered to be a fundamentally flawed concept. With the publication in 1876 of *L’Uomo Delinquente* or “Criminal Man” by Cesare Lombroso (1835-1909), the idea quickly gained ground that there existed a category of criminals marked by distinctive physical and mental traits, and carrying in their bodies and brains the “stigmata” of prehistoric Men, moral imbeciles and epileptics. Such “born criminals” were predestined to a life of crime by bodies and minds that were ill-adapted to the conditions of modern civilised life.

The criminological reflections and writings of Gabriel Tarde need to be seen in this context. In turn magistrate, Head of the Statistical Service at the French Ministry of Justice (1894-1900), Professor at the *Collège de France* (1900), and member of the Academy of Moral and Political Sciences (1900), Tarde is one of the major figures in late nineteenth-century French criminology. His work and thought have been regularly forgotten, re-discovered and then forgotten again over the years. When his contribution *is* acknowledged, it tends to be for his sociological work on imitation and his clashes with his more famous compatriot, Emile Durkheim (1858-1917). However, it is important to recognise that Tarde also played a key role in the first French School of criminology. He was also one of the first to elaborate a sustained critique of Lombroso’s theory of the born criminal; and also developed original theories of his own on the origins of criminal behaviour and on the subject of criminal responsibility.

Gabriel Tarde was born in 1843 into one of the oldest families of the Périgord region of southwest France, and counted among his ancestors the celebrated astronomer Canon Jean Tarde (1561-1636). He remained fond of the town of Sarlat and in particular the nearby village of Roque-Gageac. It was here that was located the family manor house, perched half way up a rocky outcrop, with spectacular views over the Dordogne, and Tarde maintained a study and library in the house throughout his life. As a young man, Tarde had been expected to enter one of the scientific professions, but recurring bouts of ophthalmia forced him to revise his plans. He was an avid reader of Maine de Biran, Cournot, Hegel and the Stoic philosophers, but it was the Law that he chose to study when he travelled to Paris to attend university. Between 1875 and 1893, he worked as an examining magistrate, attached to the court at Sarlat. His literary output during these years was also considerable and varied, including tales and verse, as well as copious private correspondence and reading notes. In addition, from the 1880s, he was a regular contributor to the *Revue Philosophique*, a leading philosophical journal of the period.

In 1886, this as yet little-known provincial magistrate published a work of comparative criminology, *La Criminalité Comparée*. The book was not Tarde's first; in 1879 he had published a collection of juvenile verse, and then thought better of it and had withdrawn the work from the market. There is no indication in these years that he had been influenced by Durkheim's early work, or had given any thought – until now – to making a contribution to the social sciences. The main focus of his work continued to be his magistrate's post in his native town of Sarlat. He had participated, however, in an academic conference in 1876 in the town of Périgeux, and given a paper on Maine de Biran. He had also written a dozen or so articles between 1880 and 1885 for the *Revue philosophique*, edited by Théodule Ribot (1839-1916). Five of the pieces published during the period 1883-5 concern the subject of crime. Since 1883, Tarde had also been in contact with a group of Italian jurists (including Filippo Turati, Napoleone Colajanni, Achille Loria and Enrico Ferri), whose work he presented to the readers of the *Revue philosophique*. Massimo Borlandi's study of this unpublished correspondence has shown how, between 1883 and 1888-9, Tarde's position shifted from being an ally of Lombrosian criminal anthropology to an implacable foe (M. Borlandi, 2000). The beginnings of that estrangement from the theses of *L'Uomo Delinquente* can already be detected in Tarde's 1886 book, *La Criminalité Comparée*, notably on the issue of the criminal type (ch. 1). By this point, he had also come to different conclusions than his Italian correspondents in other areas. Thus he parted company with Poletti on the question of the

relationship between rising crime and social change (ch. 2), and with Ferri and Morselli on the question of the law of compensation linking murder and suicide (ch. 4).

Tarde's first criminological work was widely reviewed and debated at some length. Although comprised essentially of previously published articles, *La Criminalité Comparée* would establish its author's reputation as one of the leading specialists in the field, and is worth considering in some detail. The book is comprised of four chapters of unequal length. The first, an extended critical discussion of Lombroso's criminal type, had been written in December 1884, and appeared in the *Revue philosophique* the following year. In this chapter, Tarde rejected the suggestion that there existed an anthropological criminal type, arguing that Lombroso had confused the criminal, the madman and the savage. Drawing on the published literature on the subject, he examined the anatomical, physiological, psychological and sociological characteristics of the born criminal, and in each respect found Lombroso's theories wanting. While Tarde stated that the Italian School had overestimated the importance of the biological basis of crime, he was careful to add that his criticism related "only to the interpretation given by Lombroso to physical or other traits frequently found among offenders. This is not to suggest that the criminal type has no objective reality" (Tarde, 2004, p. 50). In Tarde's view, the criminal type is not so much anthropological as social, or to use his term, a "professional type". He argues that this type derived not from inherited biological characteristics, but rather from characteristics unique to the members of a particular profession. Certain of these traits, of a general character, are "present at birth" as he puts it, but others are the result of apprenticeship, shared slang or imitation. Tattoos fall into the latter category for they are seen as a form of imitative behaviour, not self-expression. For Tarde therefore, "criminals at birth" need to be placed in a particular social context, for every individual can be, according to the rules of the society in question, considered as a "born criminal" (Tarde, 2004, p. 29, p. 58). The characteristics of these "criminals at birth" thus vary in time and space, and Tarde makes it clear that they are not, as a group, to be considered as physically or mentally defective: "With the exception of a few monomaniacal arsonists, murderers, or certain kleptomaniacs, who should not be confused with born criminals, nobody is predestined at birth to kill, burn, or steal from his fellow man" (Tarde, 2004, p. 58).

In his second chapter, Tarde turns to the question of criminal statistics, and draws on the 1880 edition of the official French crime figures (*Compte général de l'administration de la justice criminelle en France*). This edition was the first to contain a retrospective analysis of the

years 1826-80. It had already been the subject of an article by Alexandre Lacassagne in 1881, published in the *Revue scientifique*. The report was signed by the then Minister of Justice, Gustave Amédée Humbert, but was in fact the work of the head of the ministry's statistical service, Émile Yvernes (1830-1899). Indeed, it was the very same post that Tarde himself would occupy from 1891-6, and in that capacity he would, like his predecessor, be charged with the analysis of the annual crime figures. In his book, Tarde emphasises the difficulty of extrapolating crime trends from official statistics. According to the latter, it appeared that during the previous half century, a period which had seen the population rise by 10 per cent, rates of serious crime (*crimes*) had fallen by a half, whereas misdemeanours (*délits*) had tripled. Tarde argued that the figures did not reflect the underlying social reality. The apparent fall in serious crime was in large measure due to definitional changes, notably the relabeling of certain offences as misdemeanours (aggravated theft, infanticide, rape and indecent assault). This process of official redefinition (*correctionnalisation*), which grew in importance from the middle of the 1850s, was intended to remove from the jurisdiction of the assize courts certain cases where it was felt that juries might be inclined to inappropriate clemency. By redefining such offences as serious crimes, it meant that they would be heard before a court comprised uniquely of professional magistrates. Tarde shared official concern about the functioning of the jury system (introduced in the wake of the French Revolution), but there was something else that drew his attention in the crime figures: the rise in the level of reoffending among convicted criminals.

How did this magistrate-cum-sociologist view recidivism? It was, he stated, the consequence of “a propensity [of the criminal] to develop habits through mimicry [...] over-excited by the propensity to copy his own kind in order to resemble him even more; influenced by social causes, or by growing tendency for wrongdoers to establish contacts and social relationships, thanks to the development of transport networks, the Press and the Post Office” (Tarde, 2004, p. 82). The real danger for the criminal justice system, he argued, was not the born criminal, but rather the “contagious imitation” characteristic of this “antisocial club”, composed of professional criminals, which was extending its nefarious influence over the country's poor and idle.

Crime had become an attractive career in the modern world, he went on, because the quantity of goods to steal was rising; because prisons had been “continuously improved and fresh air

brought in”; because the courts were “more and more lenient”; and because “the concept of extenuating circumstances was now being extended to the most atrocious kinds of crime, and thus the death sentence [was] gradually being transformed into a stuffed dummy armed with a rusty old gun which has not been fired in ages” (Tarde, 2004, pp. 82-85). What was to be done? Since it was not possible to reduce the ill-gotten gains available to the criminal, it was necessary to make the personal cost of committing crime greater, by putting in place a more punitive criminal justice system, and by improving the measures for tracking offenders once they were released. Tarde had little faith in the positive effects claimed for the transportation of recidivists, though it was a policy defended by Lacassagne and indeed would soon receive official sanction with the Law of May 27<sup>th</sup>, 1885. Tarde preferred to emphasise the fact that prison conditions were too comfortable and escape too easy (see also Tarde, 1892c, p. 514). On the question of the potentially positive effects of greater penal severity, Tarde drew the attention of his readers to the example of Belgium, where crimes of all kinds were falling, thanks to the widespread use of separate confinement and the work of charitable organisations. That being said, Tarde was wary about the generalised use of separation in France’s prisons. All it did, he argued, was to make the depraved into idiots (Tarde, 1892c, p. 513). His own view was that France needed a political sea-change, in order to bring “stable and firm government, and pacify or at least contain the revolutionary elements in society” (Tarde, 2004, p. 90).

The third chapter of *La Criminalité Comparée* is devoted to “Problems in Criminal Law”. It includes a brief and original discussion of the issue of evidence in criminal trials, considering how judges arrive at a decision, and of the question of criminal responsibility. On the first point, Tarde draws on the work of Antonin Augustin Cournot (1801-1877) and above all on the concept of “non-hypnotic suggestion”, developed by the physician Charles Richet (1850-1935). Tarde argued that it was principally by this unconscious process of suggestion that judges arrived at a conviction of guilt or innocence; a novel way of applying the findings of clinical psychology to the study of judicial decision-making. It shows once again the importance he attached to imitation. When the judge had become convinced of the guilt of the defendant, according to what criteria was he to consider the prisoner legally responsible for his actions? And if he was responsible, why punish him? Tarde replies to these various questions by stating that it would be unwise to limit discussion to the issue of the “free-will” of the defendant, and to the expiatory character of the sentence, since the modern human sciences now considered both concepts highly problematic. Drawing on research by his

contemporaries on hypnotic suggestion, he argues, by analogy, that all social life is characterised by suggestion and “suggestive whims”. If we follow this argument, Tarde goes on, “it could be argued that the only difference between the suggestive behaviour of a sleepwalker and that of ordinary behaviour is as follows: that the suggestions to which Man ordinarily responds at every instant are more numerous and less external to him. The two aspects are linked, and it is their joint action which creates an illusion of autonomy.” Thus, “the conscious motivation for our actions is hardly ever the veritable cause of them” (Tarde, 2004, pp. 135-137). However, this suggestibility is not ineluctable; a suggestion experienced by an individual can be indeterminate and is not necessarily irresistible. The fact that within the mind coexist simultaneously a range of suggestions more or less compatible with each other produces a network of constraints, some more powerful than others, which allows the individual a degree of free-will. It is possible to see here a central tenet of Catholic theology: the more an individual is able to resist his base propensities, the stronger will be his system of moral values. It is upon these foundations that Tarde builds his conception of criminal responsibility. Although it will be presented in more detail in his later work, notably *La Philosophie Pénale* (1890), its basic tenets are already present in this earlier work.

Punishment, according to Tarde, functions as “social medicine” and as such can only address the moral and social causes of crime, not its physical and physiological ones. If it could be demonstrated that the only causal link between the criminal act and its perpetrator is a physiological one, then a penal sanction would have no value. This is the case, Tarde observes, for individuals suffering from mental illness which leaves them no control over their actions. This long-standing principle in French law, according to which the insane were not subject to punishment, was recognised in Article 64 of the country’s penal code at the time he was writing (1886). In his view, social causes of crime are entirely *external* to the individual. This would be the case for someone who is entirely under the control of a hypnotist. However, the more external suggestions are internalised by individuals, and become the motivations of their actions, the more those individuals may then be considered responsible for those actions. The social cause of a criminal act can thus be linked to the agency of an individual actor. In this way, criminal responsibility is detached from the moral notion of “liberty”, and the social cause is the only one which can be established between actor and action.

This relationship is complex, however. Tarde observes that while in the nineteenth century the individual actor is the basis of every calculation of criminal responsibility, it has not always been thus. In the past, the Law considered “social” responsibility to be based on “the group, indistinguishable from the family or the tribe”, whereas in modern society, things have evolved so that the individual has become the unique entity considered socially (and legally) responsible for an action. Tarde wondered if this evolution had come to an end. He worried that science could define new sites of responsibility, such as the brain, thus dissociating the individual from the social responsibility for his or her actions. Tarde had little time for such reductionism. If criminals’ brains rather than the criminals themselves were to be considered responsible for their wrongdoing, then the State, he argued, should retain the right to execute the individual who was carrying that brain around (Tarde, 2004, pp. 145-146). In his view, it remained important, however, to distinguish between offenders who had internalised the motives of their actions, and those whose free will was entirely absent for reasons of insanity. Tarde returns to the subject of imitation to illustrate this point. The actions of the insane are not the result of a deliberate choice, and are not therefore susceptible to be imitated, while voluntary action always results from a deliberate choice, whether entirely a free one or not, and thus can be imitated. It follows then that the former action, if criminal, cannot be punished, while the latter involves personal criminal responsibility, though this may be only partial (Tarde, 2004, p. 148).

The last chapter of Tarde’s book, entitled “The Crime Problem”, had appeared in full some weeks earlier in the *Revue Philosophique*. In it, Tarde had discussed “criminal geography”, adopting a stance, once again, diametrically opposed to that of the Italian School. This time, he argued that there was no direct link between crime and climate. The statistics appeared to show that violent crime was more common in warm countries, while property crime was more prevalent in cooler climes. Tarde was sceptical. He observed first of all that the crime figures for France did not fit either prediction. Moreover, he went on, it was important to look behind this apparent crime/climate correlation and seek more fundamental – and essentially social – causes of criminal behaviour. He argued that the North of Europe had become more civilised thanks to a process of “imitative propagation”. The fall in murder rates in the north of the continent was thus the positive result of a civilising process among the region’s races, considered “less delicate and more robust, less emotive and more muscular” than their southern cousins, the latter being the products of a civilisation which was older, but lacking in vitality (Tarde, 2004, pp. 151-153, p. 164). The next study in the chapter contests the

inverse relationship claimed by Ferri between suicide and homicide rates. Tarde expresses doubts about the pervasiveness of this statistical law, when the figures from different European countries are compared. He gives more credence to an alternative correlation, between *divorce* and suicide, established by French statistician Jacques Bertillon (1851-1922), older brother of criminologist Alphonse Bertillon (1853-1914). Tarde underlines once again the importance of social causes in the increase in suicide rates, and rules out any link with trends in criminal behaviour.

The last two studies in this series deal with the broader relationship between crime and modern society. What does the future hold for crime? How can society fight against its depredations? Does culture play a moralising role? While behaviour had become more civilised, Tarde argued, this was not because Man had improved, but because of the spread of morality; a process which involved “the continuous spread of imitation among Men, and the slow assimilation which results, thereby creating new friendships” (Tarde, 2004, p. 188). So culture does indeed, in this sense, play a moralising role. However, for it to succeed in eliminating criminal behaviour entirely, there would need to exist a single, unchallenged set of cultural rules, accepted and followed by all; one which would effectively remove any dissent, even of a trivial kind. The origins of crime are thus to be sought, not in the early history of a civilisation, but rather in the early signs of individual opposition within an environment where conformism prevails. Invention, vital to a healthy society, could be considered a form of non-imitative dissent, and in some societies be labelled a “crime”. Thus, according to Tarde, immorality and opposition will only disappear when there exists on Earth “a single and unique State, and a single and unique culture” (Tarde, 2004, p. 191-195). That day seemed to him a long way off, since the rise in property crime indicated “a general decline in truth and good faith”.

Unlike crimes of violence, Tarde argues, cerebral crime (theft, fraud, breach of trust, etc.) and crimes against decency have in common a resort to untruthfulness as a prelude to crime. Someone who refuses to lie will not be tempted. But can a society exist without lies? It is highly doubtful in Tarde’s view, for lies serve a vital social function: they are both necessary and universal, for we need fictions, be they religious or political, to maintain the authority of the State. “Official historians are necessary to re-write the past, journalists are necessary to distort facts, and multiple actors are necessary to participate with success in the suffrage game, whether restricted or universal, and to receive from the public the orders and

compliments that have been dictated to them” (Tarde, 2004, pp. 204-205). This “social need for illusion” is also what causes and allows “a logical agreement”; that “set of converging judgments and intentions” which is necessary for life in society. However, while that agreement is easy to obtain on an individual level, it is much more difficult to create in a society where individuals possess diverging judgments (Tarde, 2004, pp. 205-210). Science is of no help in this respect. What is needed rather is that science loses its force so that a new “captivating” ideal is born, allowing a return to pure, honest moral values of the kind found in certain primitive societies (Tarde, 2004, pp. 196, 212). Tarde seems to hold out little hope that such a society is around the corner.

The link between the four chapters is clear, even if Tarde does not make it explicit in his preface: it is the “social importance of imitation” (Tarde, 2004, p. 84). The concept plays a key explanatory role in Tarde’s thinking, from this first work onwards. It is imitation in the form of repetition that enables the object of scientific observation to be constituted. The official crime statistics revealed a fifty-year upward trend, while breaches of civil law were stable, and those in the commercial sector falling. According to Tarde, the first trend was indicative of the nefarious effect of imitation; the second trend the absence of any effect; and the third one its salutary influence (Tarde, 2004, p. 109). This is not the place to examine in more detail this concept of “imitation”, nor its place in Tarde’s thought, but it is clear that the notion is both central and omnipresent in *La Criminalité Comparée*, even if it is not the subject of an extended treatment.

The book was widely debated in scholarly circles, and the reviews were overwhelmingly positive (Renneville, 2004). Émile Durkheim himself praised the new science of criminology, referring to the “outstanding articles” on the subject written by Tarde (Durkheim, 1886, p. 80). Those reviewers who gave an opinion on Tarde’s ideas tended to concentrate on their penological and political applications. There was some negative comment, however. In the *Revue de la réforme judiciaire et législative*, edited by Victor Jeanvrot, for example, the reviewer argued that Tarde had abandoned “the calm moderation and serene impartiality of the philosopher” in his chapter devoted to criminal statistics. He had, it was suggested, “exaggerated” the gravity of the situation concerning crime, seemingly carried away by his “systemic mind” to conclusions that were “excessively pessimistic”. While the suggestion to set up criminal laboratories in Law faculties met with approval, some of Tarde’s other statements were criticised for their “impertinence”. These included notably his points about

the difficulty of resisting the influence of voters since the return of “parliamentary government”; his comment that the death penalty “”had “not killed anything much for some time”; and last but not least, his insistence on the need for a political change involving greater firmness in government: “Always the panacea of strong government! But that’s a rusty old gun which has never frightened criminals” (Anonymous, 1889, p. 151)

Tarde’s conservative stance was also picked up by the academic journals. In *La Revue d’Anthropologie*, Paul Mongeolle expressed his regret that Tarde’s underlying theory had not been expressed with clarity. Crimes and misdemeanours were “determined by social causes”, and “by adopting this sociological point of view, Mr Tarde differentiates himself from the Italian School.” The work was indeed “among the most highly suggestive; he is one of the small number of authors who give food for thought” and are “of the greatest interest to the social sciences”. However, Mongeolle challenged the idea that the decline in the number of murders and the rise in that of lesser offences was the result of social transformations and “revolutionary agitation”. According to the reviewer, those trends were to be explained rather in terms of the process of urbanisation and the development of the large cities (Mongeolle, 1886).

The following year, the same journal published a piece on the definition of criminal anthropology, penned by Paul Topinard (Topinard, 1887).<sup>1</sup> A follower of Paul Broca, Paul Topinard (1830-1911) argued that like Lombroso, Tarde believed in the existence of an anthropological criminal type; a belief which in his (Topinard’s) view had no basis in the facts of anthropological science. Strictly speaking, he went on, “criminal anthropology” was a logical impossibility, and he criticised Alexandre Lacassagne for having used the term for the title of his journal, launched in 1886. The Lyons professor would have been wiser to use the term “criminal sociology” in his journal, Topinard claimed, and to recognise that in making proposals in the criminal justice field, what he was doing should be termed “criminalologie”. Topinard was defending here a purely *physical* conception of anthropology. He rejected the use of the term “criminal anthropology” to describe the approach of the Italians and the French (including Lacassagne, Tarde, and Manouvrier), because of its social and judicial connotations. A veritable “criminal anthropology”, in this conception, would be confined to a purely anatomical study of the individual criminal.

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<sup>1</sup>. On this point, see Renneville, 1994 : 199-202.

With Topinard having, as it were, tarred Tarde with the Lombrosian brush, the Sarlat magistrate was moved to write an irate letter to the editor of the journal. Topinard subsequently admitted his mistake, and replied to Tarde that “it is obvious that we are in complete accord”, agreeing that the existence of a secondary “professional type” was a probability if not a certainty according to the laws of anthropological science. It should be noted in this context that the concept of the “professional type” was a commonplace in French scientific and literary circles in this period (Renneville, 2003, pp. 248-261). Topinard went on to suggest to his correspondent that he write a review of two recent publications on the subject, which would offer him the opportunity of responding in print to the anthropologist’s remarks.<sup>2</sup> Tarde’s review appeared in 1888. While noting that, like Topinard, he considered Lombroso’s born criminal type “an exaggeration”, Tarde nevertheless reiterated his conviction that he did not rule the existence of criminal types per se: “[Topinard] does not accept that thieves or murderers have typical anatomical or physiological characteristics, and he explains the origins of the criminal act above all by social causes. However, he does not deny that criminals’ brains have numerous structural anomalies. It seems to me that he gives too little weight to these organic defects – the microbe generated by the culture medium, to use the highly appropriate expression of Dr Lacassagne – and wrongly locates them solely in the brain. In fact, the face – not at rest like in a photograph, but in movement – the way the body moves, along with gestures; all of these provide vital clues to the trained eye that the criminal virus had infected the cells of the brain (Tarde, 1888, p. 522). Tarde did however make common cause with Topinard in rejecting the name chosen for the new science; though he also considered that “criminology” should equally be ruled out for its associations with the penal philosophy of Garafalo. In fact, his own preferred option for naming the new science bringing together research on the criminal was “criminal psychology”.

In 1889, in a belated review of *La Criminalité Comparée*, the *Revue de la réforme judiciaire* stated that “There is no need to add to the praise that has already been heaped on this work. In learned circles, it already enjoys a reputation that combines esteem and authority and has earned a distinguished place for its author among contemporary philosophers.”<sup>3</sup> Judging by the number and tone of the reviews, Tarde’s first “sociology book” was a clear success. It gave Tarde a national reputation, facilitated contacts for him with other specialists in the field,

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<sup>2</sup>. P. Topinard to G. Tarde, manuscript letter of April 21st, 1888. Fonds Tarde. Correspondance. Archives du CHEVS.

<sup>3</sup>. « La criminalité comparée », *Revue de la réforme judiciaire et législative*, n° 2, 5<sup>e</sup> année, 15 mars 1889, p. 150.

and allowed him to gain further influence with the publication of articles in scholarly journals such as the *Archives de l'anthropologie criminelle*, the *Revue d'anthropologie*, and the *Revue scientifique*. He also continued to publish regularly in the *Revue philosophique*, and indeed would maintain the connection with this journal for the rest of his life.

In his second work on criminal matters, *La Philosophie Pénale* (1890), Tarde developed his theory of criminal responsibility, seen as a half-way house between the concept of free-will dear to the Classical School, and the determinism of the positivists. In Tarde's view, "liberty" could not constitute the basis of criminal responsibility because it was a metaphysical concept, which by definition was taken to be the underlying cause of action. Instead, responsibility should be based on the psychological and social concepts of "personal identity" and "social similarity". In order for a defendant to be judged responsible for his actions, he needs to possess a certain consciousness of his personal identity, and his action has to lead to a feeling of culpability linked to his membership of society. Personal identity can be destabilised by insanity, drunkenness, hypnotism or old age, while social similarity relies on the proximate relationship between the offender and the society which judges him. It is because the desires and beliefs of the wrongdoer match those of the broader social group that he is susceptible to feelings of guilt.

This question of responsibility, whether criminal, moral or social, constitutes the second key debate among criminal anthropologists after that of the criminal type. One of the interesting features of this debate, as far as Tarde was concerned, was that it addressed a major judicial problem: how to establish responsibility in the case of crimes involving multiple offenders. Given that a particular action may be considered as a crime at a particular period and in a particular social group, while in different circumstances the same action might be considered as an act of virtuous bravery, or even heroism, how were collective crimes to be judged? "Is it not the case", he writes, "that the actions of each are justified by the participation of all? That each community has a tendency to make its own laws, its own distinctive moral code, and thus that the idea of collective guilt is a contradiction in terms? Can we imagine a national crime, a crime committed by a whole nation?" (Tarde, 1892a, p. 378) This theory of criminal responsibility would not have any practical judicial applications. The idea of identity and the permanence of the self would be rejected, notably by von Liszt in 1897 (Léauté, 1972, p. 252). Nevertheless, Tarde's highly original ideas on the subject provide a further example of

the wide-ranging debates throughout Europe in this period concerning the individualisation of punishment.<sup>4</sup>

Although familiar with individual legal cases from his work as an examining magistrate, Gabriel Tarde rarely ventured into print on the subject, preferring to leave it to his fellow criminologists and the Press. He was a regular contributor to the *Archives de l'anthropologie criminelle*, founded by his friend, Dr Alexandre Lacassagne, but only wrote three articles on this subject, dealing with four cases: those involving Chambige, Wladimiroff, Achet and Weiss. These three studies were published together in 1892 in his book, *Études Pénales et Sociales* under the title: “Four Crimes of Passion” (*Quatre crimes passionnels*). In the introduction to this chapter, Tarde described his fascination for this type of case; a fascination which derived, he stated, “both from the reaction provoked among the members of the public, and for the way they generally raise the question of the moral responsibility of their perpetrators” (Tarde, 1892b, 151). In reality, only the Chambige case, with its double suicide, seems to have genuinely fascinated him, though with no lasting consequences in terms of his theoretical work (Carroy et Renneville, 2005)

From 1893 onwards, Tarde co-edited with Lacassagne the *Archives d'anthropologie criminelle*, the first French criminological journal, now available to researchers in digital form (<https://criminocorpus.org/bibliotheque/collections/1/>). In 1894, he left Sarlat for Paris, becoming Head of the Statistical Service at the French Ministry of Justice. As noted earlier, Tarde was given responsibility for the annual statistical reports produced by the ministry, covering the years 1891-4. His analysis revealed a halt in the previous – seemingly inexorable – rise in the level of recidivism. Tarde explained this welcome turnaround as a consequence of the *Loi Bérenger* (1891), introducing the suspended sentence, rather than the law governing the transportation of recidivists (1885); a measure which – unlike his friend Lacassagne – he had never supported (Tarde, 1898, p. VI). Tarde never felt much enthusiasm for such painstaking statistical comparisons. He derived more pleasure from the social life of the Capital, his lectures at the *École libre des sciences politiques* and his talks at the *Collège libre des sciences sociales*. He was also an active member of a number of learned societies, such as the *Société générale des prisons* and the *Société de sociologie de Paris*, and took part in a number of international congresses on criminal anthropology, sociology, and prison reform.

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<sup>4</sup> This theory was, however, praised by French psychoanalysts Michel Cénac and Jacques Lacan in their seminar

Tarde's ideas would attract criticism from Emile Durkheim, despite the latter's positive remarks cited earlier. Durkheim considered that society was an organic whole, governing the lives of its members by external constraints, while for Tarde, society was the result of social interactions between individuals, leading to imitation, opposition and invention. Durkheim argued that crime was an inherently normal social phenomenon, because it was to be found in all societies; it only became "pathological" when it reached a level such that that social life was threatened. Tarde disagreed, claiming that crime was a necessarily abnormal phenomenon, indicating that offenders were ill-equipped to follow the communal rules of society.

Although Gabriel Tarde may be considered an important figure in late-nineteenth century French sociology, it was above all in the field of criminology that he chose to apply his social theories: by commenting on criminal statistics; by participating in the birth of the study of crowd psychology; by suggesting criteria for the use of evidence in the trial setting; and finally by developing a distinctive theory of criminal aetiology and punishment. His work as an examining magistrate (1869-94), and as a statistician for the Ministry of Justice (1894-1900), and also the variety of his interests, make Gabriel Tarde a distinctive member of the criminological fraternity of late-nineteenth century Europe. A jurist by training, he was also fascinated by the debates and preoccupations of his era in both natural and social science, and his thinking bears the unmistakable stamp of that influence.

His first academic work is good example of these myriad influences, and he clearly thought highly of *La Criminalité comparée* himself, for it featured at the top of the list of works he submitted as part of his application for a chair in modern philosophy at the *Collège de France*. Finally, in 1902 and 1903, Tarde prepared a last series of lectures on criminal matters. Curiously, the word "criminology" was missing from the title he chose for this series; he preferred that of "criminalistics". Probably, he considered that "criminology" remained too closely associated with what he considered to be the excesses of the Italian School.

It needs to be acknowledged, however, that the renown he gained as a "criminologist" during his lifetime has not stood the test of time. One of the reasons for this, no doubt, resides in his *oeuvre* itself. His books are composed of collections of often disparate articles, which makes it difficult for the reader to gain a clear picture of their author's theoretical stance (in clear

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of 1950 (Lacan, 1999 : 138)

contrast, for example, with his contemporary and adversary Cesare Lombroso). In addition, Tarde himself admitted that there was a tension in his work between his literary interests and the demands of scientific method. An articulate and experienced practitioner, recognised by his peers, but isolated from them, the philosopher-magistrate from Sarlat never drew to himself a group of like-minded followers. There would be no “Tardian School” of criminology.

This does not mean that the study of the thought of Gabriel Tarde has no contemporary resonance. Tarde himself had the habit of annotating his own readings in the field with a series of marginal swallow symbols – a bird which had fascinated him since his poetical musings as a young man – to indicate passages which deserved further attention. In the same way, the modern researcher can find in Tarde’s work a number of themes and questions similar to those which preoccupy criminologists today. It must be admitted, however, that those linkages between Tarde and the modern field of criminology are more potential than practical, and thus far his thought has been of interest above all to historians of the discipline. There are no more self-declared “Tardians” in our era than in his own. Many reasons have been suggested for this state of affairs, but one of the most relevant is no doubt to do with the author’s style, which is itself a reflection of his epistemological choices. Sociology was born in the late nineteenth century out of an attempt to resolve the tension between literary and scientific method, and came down categorically in favour of the latter. From the point of view of the history of science, Tarde made the “mistake” of considering that the priorities of the moment did not justify such a choice.<sup>5</sup> What might appear like epistemological indecision on Tarde’s part is thus in fact the result of a conscious choice, one shared by certain of his contemporaries (albeit one which would subsequently peter out), to attempt a synthesis of literary and scientific discourse.<sup>6</sup> Tarde’s thought may not on its own have heralded the spring of criminology, but it could be argued that France’s criminological “Swallow” made a vitally significant contribution to that process.

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<sup>5</sup>. Tarde continued to publish short literary works (tales and one-act plays) up until 1896. On the broader question, see Wolf Lepenies (1991).

<sup>6</sup>. Another example of this approach is the work of Alfred Binet (J. Carroy, 1993)

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