

An english summary of the italian papers dedicated to Enrico Altavilla

Since these articles were written specifically for the Conference “The legacy of Enrico Altavilla: forensic psychology today” held in Naples (18/19 February, 2000), no English version was prepared. We believe it is timely, therefore, to provide the gist of these articles in English.

The Conference, from which the articles now published, are taken, was dedicated to Enrico Altavilla (1883-1968), an eminent criminal attorney and a foremost scholar of Forensic Psychology associated with the Positive School of thought. He wrote many works, most of which were translated into various languages thus ensuring him international recognition and academic positions abroad. He was appointed member of the Society of Criminology and Legal Medicine of Argentina (1954) and of the Mexican Academy of Criminal Science (1960), a member of the Council for Criminal Problems at the Council of Europe at Strasbourg (1962). Worthy of special mention is one of his most enduring works “*Judicial Psychology*” whose first edition dates from 1925 and which even today is considered an essential text for the understanding of legal psychology particularly within the Italian framework. Among his other works we might mention *Outlines of criminal law* (1932), *The subjective theory of crime: a dogmatic-positivist reconstruction of the criminal code* (1933) and *The dynamics of crime* (1953).

Gulotta, in his article entitled “*The contemporary relevance of Enrico Altavilla*”, underscores the crucial contribution given to forensic psychology by the work of Enrico Altavilla, groundbreaking achievements which embody the first and most significant systematic approach to the subject. The article examines the essential themes that run through Altavilla’s thought with particular reference to evidence and the relativity of judicial truth. Altavilla, in dealing with the issue of evidence, stressed the relative nature of perception, the selectivity of the perceptive process and the unreliability of memory in the reconstruction of an event. As for the person of the attorney, Altavilla underscored the importance of the themes brought

up both during debate and the process of persuasion and hence the relevance of the strategy used to formulate pleading. He laid stress upon the fact that the attorney must take account of the judge's perception of the trial. In conclusion, Gulotta shows that Altavilla also highlighted the subjective feature of the judge's convictions and the relative value of judicial truth: the trial, therefore, is a conventional reality.

Mestitz, in his article "*Legal psychology and research*", gives an account of the current state of legal psychology and especially of research carried out in this area. Firstly, it should be pressed home that currently the term "*legal psychology*" rather than "*judicial psychology*" is used: this new epithet refers to a scientific discipline which embraces several fields of study among which there is judicial psychology. There has also been a change on the very object studied in: the *focus* has moved from the behaviour of the accused and of the other persons involved in the trial to groups (and to the interaction between subjects and groups) and to deeds from a psycho-social perspective. In the domain of research, moreover, there has been a change in methodologies and instruments. Today use is made of methodological instruments typical of the social sciences such as direct and/or participatory observation in natural contexts, interviews and questionnaires, and not only experimental methods, namely, the creation of simulated situations. There is a brief presentation of two examples of research carried out in Italy which have used the social representation approach in order to probe two objects of study: judicial power and the criminal trial. In conclusion, Mestitz expands upon the difficulties which legal psychology research meets with in Italy: judicial formalism, the diffidence of academic lawyers and magistrates and the lack of financial resources, a fate it shares with other social sciences.

De Leo's contribution, entitled "*Self-regulatory functions and processes in the genesis of criminal behaviour*" identifies some approaches of analysis and research into the origins of criminal behaviour which might provide some psychological enlightenment to explain the increase in criminal behaviour and consequently avoid exclusively pathological explanations to account for these deeds and their perpetrators. Such an approach would further enrich our knowledge of

criminal psychology and create a scientific premise for a conceptual, legal and judicial revision of such notions as imputability, responsibility and social danger. The current state of knowledge in the areas of criminology and the psychology of deviancy would have us believe that the causes of criminal behaviour are not due to particular social, familial, scholastic, working or group conditions or, for that matter, to specific characteristics of the individual. Rather, such causes are to be identified in *self-regulatory mediation systems* which subjectively generate the connections existing between such factors as social conditions, individual characteristics and action. At an individual level, the self-regulatory systems studied in relation to deviancy are the following: the reasons and rules adopted and pursued by subjects; the intentions, meanings and goals; socio-cognitive convictions such as self-effectiveness and the cognitive-social strategies of moral disengagement; cognitive, relational, emotive, communicative and social competence. At another level one cannot ignore the influence wielded by the self-regulatory system of the family, a unit which tends to mould the self-regulation of its members. Features examined in this area are cohesion and adaptability, parental competence/incompetence, parental engagement/disengagement, style and mode of communication as well as the quality of supervision or observation. Another level is composed of the peer group which is able to attain a state of self-regulation through the generation of norms, status, roles, its own culture, criteria of leadership and reputation and procedures which affect each of its members. A policy of deviance prevention should therefore give priority to adolescent groups both in the neighbourhood (an area of informal living) and at school (institutional socialization). Research should proceed in three directions: the system of convictions of the criminal, taking into account the cognitive-social competence to gain insight into the regulatory power of individual convictions/competence; the system of pragmatic convictions and competence in the use of social norms; the criminal's system of belonging and relationships.

Cesaro, in her article "*The educational functions of the juvenile trial and guarantees of the defence: research into the operative modes and strategies of the new juvenile defence*", outlines the various features of the role of the juvenile's Court-appointed defence attorney, starting from art.15 of the

implementation norms of the 448/98 ministerial decree which imposes a mandatory and specialized training focus specifically addressing the law of minors and the problems concerning the early stages of personal development. The training of the juvenile defence attorney, therefore, cannot be confined exclusively to the legal area, rather it must embrace the psycho-legal sphere. Such education must not only address law, but also such social sciences as psychology, criminology and sociology. An innovative training of this kind finds its justification in the dual function of the juvenile trial, namely the trial of fact and the trial of personality. Research into the personality of the accused minor is crucial not only to identify his/her degree of maturity, and hence the imputability, but also to take the most appropriate measures in line with the pedagogical purpose of the juvenile trial. The juvenile defence attorney guarantees the provision of technical assistance, ensuring that the assessment of responsibility is carried out in accordance with the principles of law and with the right to self-defence on the part of the minor. The defence attorney should spur on his youthful client to actively take part in the trial and ensure that the language used during the trial is both clear and meaningful to the minor. It is therefore essential that the defence attorney should possess a certain communicative competence, namely the ability to develop a mode of communication which is best suited - in terms of strategy, forms and terminology - to his counterpart. Detailed analysis is made of meaningful relationships for the defence attorney: relationships with the minor, his parents and with social service personnel. Such relationships differ from each other and therefore entail the use of rules and appropriate modes of behaviour in dealing with them. As far as the relationship with the minor is concerned, the attorney must create a situation - even using a non-verbal and paralinguistic language and through the explanation of those principles which regulate the legal relationship (the professional secret, the minor's right to be briefed at every stage of the trial and active participation) - where there is a willingness to listen and he must use a more straightforward and simple language appropriate to the age of the accused. Two distinct traits distinguish this relationship: one is acquisitive and its purpose is to obtain information about the incident and the minor's personality in order to better formulate the strategy of defence, and the

other is formative where the attorney is the advocate of the pedagogical function of the juvenile criminal trial.

In the relationship with his parents, the defence attorney must avoid any conduct which might be interpreted as an alliance while maintaining an open stance and making it quite clear that his client is the minor. The ultimate aims of the relationship are to gather information about the minor, to clarify the various features making up the juvenile trial and to explain what will transpire. The relationship with the social service personnel is essential for the outcome of the trial and should have rigorous collaboration as its hallmark. The defence attorney may request social service personnel to provide further psychological analysis or the devising of projects for testing purposes.

The article by Testa, "*Clues from lies*", is an inquiry into the subject of the lie and verbal clues which may help us to discern the truth or untruth of the account we hear. Such a theme is unquestionably useful when applied to courtroom discourse, since it would ease the task of assessing credibility.

This contribution is a piece of explorative research the aim of which is to identify, in an experimental context, the possible verbal clues available to uncover lies in the expression of judgements or opinions. Each participant in the research project was initially asked to speak, providing the relative motivations, of a favourite film and another which he disliked among those recently seen. This discourse, called the sincere version, was taped for viewing. Subsequently, each individual was read the second requirement: "Given your motives, give an account of the movie you liked most, but this time try to have me believe that actually you disliked it. Then tell me something about the movie you disliked but try to have me believe it was your favourite movie and that you in fact enjoyed it a lot". This part of the project, called the lying version, was also taped.

The material obtained was written out and inserted in *ATLAS ti. version 4.1* for a qualitative analysis of the texts and then codified. From an analysis of the material possible clues to reveal lies turn out to be "generic motivation" parameters, namely parts of the text where motives of a generic kind are expressed and which give little indication of the personal motive underpinning a judgement, for instance,

explanations with reference to the type of film seen. Both generic and “opinion” (those expressed as an opinion – for instance, “good” or “bad”) motives are mostly used in the lying version. In sincere versions, on the other hand, where the first person singular personal pronoun is mainly used the “emotive motivations” – those parts of the text which focus on the person’s emotional state, for instance, that were one’s feelings – refer to the subject’s emotional state on seeing the film (sensations, emotions). In the sincere version, the subjects tend to use roughly 40% more words and take, by and large, 40% more seconds if compared to the lying version.

In his article, “*The case of a serial rapist*”, Bramante examines the case of a rapist accused of perpetrating over 40 assaults from 1973 to 1996. The article highlights the patterns used in the assessment of imputability and social danger. The crimes were carried out in four periods: the initial series of assaults dates from 1973 when the man had just turned 18; the second series in 1981/1982, the third in 1990 and the final series in 1996. The *modus operandi* remained unvaried throughout: the victims were women unknown to him with ages ranging from 18 to 60. The women were raped late at night as they returned home. The aggressor pretended to be a householder living in the same condominium who had forgotten his keys. Approaching the elevator, he would threaten his victims with a weapon (a bottle, a knife, a scissors or a toy gun) and force them to have a degrading form of sexual intercourse. In most cases he would also rob his victims.

This case is emblematic of the failure of psychiatric justice, since the rapist went through 10 expert examinations in the presence of 12 different psychiatrists and during which various theoretical parameters were used (traditional psychiatry of the nosographic kind, elements of psychoanalysis, reference to DSM III).

This failure occurred both in the diagnosis and the treatment. As concerns the diagnosis, an expert witness judged the accused to be sane of mind, whilst others maintained he was partially insane. Even more divergent was the psychopathological diagnosis: two psychiatrists pointed to neurosis, three to narcissistic disturbance of the personality, three to borderline disturbance and two to anancasistic problems. Treatment was also unsuccessful. Although the experts held that they had eradicated those features of the accused’s personality that might make him a danger

to society, the facts were to belie such confidence. In truth, once the man was released from prison, he began to be a prey to his sexual impulses yet again. The problem was that when the issue of social danger was re-examined, the experts based their findings exclusively on the man's behaviour, an examination which evidenced a normal pattern of behaviour both during the subjects hospitalization and when confined to prison. This examination, however, took no account of the fact that in conditions such as these there are neither women nor elevators, namely there is a total absence of elements which triggered the man's deviant behaviour.

Bruzzone, in her article, "*Some reflections on the 'Bilancia case', the serial killer of Liguria*", following a definition of the constitutive elements of serial homicide and its perpetrators, illustrates the case of an Italian serial killer who, between 15 October 1997 and 20 April 1998, murdered, on fourteen distinct occasions, seventeen victims and attempted to kill another two. The biographical and legal vicissitudes of the man evidence that the main person was deeply disturbed with an initially deviant and subsequently criminal background, was corroborated by a wide-ranging criminal record: arrested as a juvenile for moped theft and acquitted since held to be not responsible for his actions. When 20 he was arrested for theft and after three years for attempted robbery; due to an accident at his workplace he suffered a brain trauma and was subsequently recognized as being partially handicapped. He was arrested with an accomplice in France for a series of thefts, and afterwards arrested with two accomplices for robbery and abduction; he was also reported for gambling activity. His elder brother committed suicide by throwing himself and his four year old son under a train. A prostitute reported him for violent sexual abuse and abduction; he was also reported for sexual abuse by a female salesperson.

We learn that his early family life was aberrant, pervaded by precocious, frustrating emotional experiences which had shaped two of the deep-rooted personality traits of this serial killer: an acute affective detachment and the obsessive need for compensation through the construction of a self-image which was both grandiose and transgressive/deviant. The series of crimes got underway with victims whom the murderer had known for years and the motive for the killings were revenge. The

crimes continued and were diversely motivated: robbery, criminal projects, revenge, avoidance of imprisonment, attempts to lead the police astray, conflict. These motives did not only underpin these crimes, but also were the basis of his homicidal spree. All these features certainly bear no resemblance to the motivational profile of the 'classical' serial killer.

A hypothetical motive running through these criminal episodes might spring from two salient elements: punitive control in relation to the parental couple and the unquenchable desire for compensation in relation to the frustrations suffered. The extreme diversity that is a feature of the crimes – those we have mentioned and the choice of victims – has created a certain perplexity in the area of serial killing investigation which has tended to consider sexual deviance as the prime motive. However the sexual basis of serial killing would seem to be insufficient to account for the manifold expressions of serial homicide.