E1 Classifying Criminal Subjects: Clustering Based on Psychobiological Sciences and Italian Criminal Law

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After attending this presentation, attendees will be able to explain, via a complete examination of the criminal, all the elements necessary to fully understand the phenomenon described by the classification of criminals in appropriate clusters based on Italian case law and psychobiological sciences of criminal behavior.

This presentation will impact the forensic science community by allowing to easily examine the various characteristics of criminals and use the information with ease during their studies also in reference to the parameter of naming each cluster into where the subject is placed.

Prior to the presentation of the various clusters, for this study, the definition of the "active participants in the offense" (or "soggetto attivo del reato") which identifies the offense and brings the offender to be called a criminal, a person who violates a judicial or codified law. The concept itself is distinct from that of the deviant who is in fact the author of acts against the rules and social norms. Finally, the most suitable name to define the subject of the crime, or "deviant criminal," is identified as someone who deviates from social norms to damage constitutionally protected assets (Italian Constitutional Law). A list of requirements is then provided so that one can legally designate a human act as a "criminal act," even from the standpoint of U.S. law (*actus reus, mens rea*). All judicial parameters (Italian criminal law) such as the criminal ability, the penal ability, the ability to commit a criminal crime, the character of the offender, and the *suitas* (conscience and will of conduct) are taken into account in full harmony with the criminal psychiatry in order to describe the legal and psychological parameters that will allow us to collect the various criminal elements into predetermined clusters.

The first cluster is based on a breakdown of the criminals following a legal approach where the various benchmarks based on the Italian penal code are explained. Such benchmarks include the habitual crime alleged by law, the habitualness assumed by court, the professionalism in the offence, the tendency to commit crimes (as stated by Article 108 of the Italian penal code), and the seriousness of the offence.

The second cluster is based on a scientific setting collecting and describing the occasional criminal, the constitutional criminal who can be psychopathic, a neuropsychopathic or psychotic, or with a tendency to be a criminal.

In the third cluster criminals are gathered under the concept of diminished capacity and insanity under Article 88 and 89 of the Italian penal code. Moreover, an explanation is given on the concept of accountability related to one's ability to be in full possession of one's faculties and to mental illness. Within particular cases, this cluster includes: psychopaths, psychotics, constitutional criminals, criminals by passion, criminals who are insane, insane who are criminals, and the criminal by proclivity.

In the fourth cluster, criminals are grouped according to their social danger (intense capability to commit a crime), where the habitual criminal, the professional criminal, that with a tendency to be a criminal, the recurrent criminal, and the constitutional criminal can be found (B. Di Tullio, Judgement Court of Appeals, Trieste, October 5th, 2009).

The main clusters described will be of great importance for researchers of forensic science because they were confirmed in the very recent, and for the first time in Italy, decision of the Court of Appeal of Trieste (Italy) on October 1, 2009. In this case, the sentence was reduced because of the presence of certain MAOA genes (MAOA-L) in the defendant which can cause violent reactions within certain adverse environmental contexts, predisposing the subject to antisocial reactions. Finally, the four clusters are compared to a cluster of criminals used in the United States.

Criminals, Biology, Criminal Law