

**IN SEARCH OF MISTER HYDE: THE RATIONALISTIC RISK OF FORENSIC GENETICS**  
(FRANCESCA ZANUSO – UNIVERSITÀ DEGLI STUDI DI VERONA)

*Abstract*

The use of neuroscientific investigations and of genetic evidence in two recent judgements (Trieste 2008 and Como 2011) to better establish the culpability of the accused of egregious crimes has raised great attention and considerable expectations within the Italian public opinion.

I must specify that the scientists involved and penal scholars have, mostly, remarked that data acquired through expert testimonies contribute to prove a higher vulnerability instead of a determination to crime commission; nevertheless, the media, sensible to public opinion's expectations, conveyed the idea that, on the contrary, the "gene of evil" has been discovered or, at least, that science is in its good way to detect the "data" proving the nature of Mr. Hyde, thus offering a way to effectively protect the various Dr. Jekyll.

With my talk I suggest that the public opinion have been tempted by such a sort of genetic stigmatisation because of fear and, more exactly, because of a double dimension of fear.

Such a fear seems, on the one hand, rooted in sub-conscious and, on the other hand, due to the rationalistic and relativistic dimension of our ripe society.

The fear that anyone experiment before the manifestation of evil go together with a subtle anguish which urges our heart to discover the complexity of human nature and the possibility that evil is deeply rooted into us and, sometimes, faintly veiled by good. Sometimes, we perceive ourselves alien to ourselves, noticing a dimension of the self which may not always be connected to the «me» we would like to be. In the «self» there are also antisocial drives which cannot be confessed, which we usually control but which we fear they might outburst. The result of such a genetic mapping may calm this anxiety, reassuring us on our own nature and making us feel normal, adequate.

At the same time, our society is totally unprepared to face the challenge of multiculturalism and the emersion of the diverse which too often appears adverse, due to ethical relativism and, most of all, to the renunciation to use the fundamental instrument of dialogue. Only the latter may allow us to catch what is really common and, therefore, communicable in the different manifestations of subjectivity and to respect, consequently, the diversity in the search of what every human being has in common. Only thanks to dialogue we may not fear, only thanks to a dialogic activity that does not limit itself, as it too often happens, to a relativistic exchange of opinions.

For these reasons, the eternal Western temptation to detect, in the articulation of a scientific data, the "features of crime" appears scientifically in our era in a new vest, that – more *à la page* – of neurosciences and genetic. It urges to pretend a new labelling of the human criminal, entrusting to it the duty of protect society from crime.

If a genetic alteration is thought to cause evil, then evil may be confined in such a genetic alteration. We should defend ourselves against it, in its absence we may be safe from others but also from the potentiality of our self: this is what, more or less consciously, a good part of the public opinion thinks when it reads that a criminal was "born to kill".

From a legal-philosophical standpoint, I think we should vigorously criticise such temptation of confining evil in a well-individuated category of subjects, the so-called abnormal. It is a typical manifestation of penal rationalism and, as such, it must be fought, thanks to an open-minded rethinking of criminal liability, in the respect of legality and of penal guarantees. Such a rethinking will make us fully appreciate the contributions of neurosciences and of forensic genetics and reconsider the structure and function of penal sanction, without lingering in emotional fears, but recurring to the screening of dialectics.