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THE CRIMINO-BIOLOGICAL SERVICE IN BAVARIA¹

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Bavaria was in 1921 the first among the German federal states to introduce in her penitentiaries the system of graded punishment, or in other words the so-called progressive system. This reform was originated by Mr. Richard Degen, now Director in the Bavarian Ministry of Justice.

The system of graded punishment aiming at the correction of the offender is necessarily based on as thorough as possible a study of each and every individual prisoner. In the case of a-social and anti-social individuals, in particular, education and correctional treatment are contingent upon a study of the prisoners and convicts to whom the efforts along these lines are to be applied. Only an adequate insight into the mental and psychic condition of the convict, into his personality, as well as into the external factors and circumstances under which he grew up, into the impressions he gained during his youth, into his bringing-up, into the later course of his vocational and personal life, into his economic condition and into his social status and contacts, can enable us to gain an adequately clear picture of the traits of his character, of his tendencies and possibilities of reaction, and throw light on his capacity for readjustment. For this reason it seemed expedient to inaugurate a biological study of the convicts at the time when a system of correctional education was being introduced in the penal institutions of Bavaria.

For a number of years past all convicts eligible for the system of graded punishment because of the lengths of their respective terms, are, when delivered to penitentiaries in Bavaria, being subjected to a medical examination; i. e., every individual sentenced to a prison term exceeding four months.

The examination is performed primarily by the prison physicians. The latter are in Bavaria appointive state officers. For purposes of the examination a questionnaire is being used. This questionnaire was devised by the author of this article and was tested and approved by the Supreme Bavarian Health Board, which is the highest medical consulting authority in Bavaria. The questionnaire contains

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first of all data on biological heredity on the paternal and maternal side of each convict; these data are made as exact as possible. In securing them, information from as many members of the family as possible is secured by asking, primarily, the parents, their brothers and sisters, brothers and sisters of the convict himself and also his grand-parents both paternal and maternal. Thereupon every effort is being made to ascertain not only the names, the age, vocation and locality of residence, year of death and ailment which caused death of any and all of these persons, but also their peculiarities of character, their social behavior, their physical or mental qualifications and defects and their criminal tendencies, if any.

These data are followed by an accurate description of the given convicts's life history, his youth, the influences which dominated his bringing-up, his scholastic record, his selection of a trade and changes of trade, if any, his journeyman's years, his military service, his participation in the world-war, if any, and his marriage. It is of course understood that the genealogical data of his wife and of his legitimate children, as well as of children born prior to or out of wedlock are being collected and classified in the way described above. Finally, the exact dates, categories, as well as the internal and external causes of all his previous criminal offenses are ascertained; in connection therewith such factors as dipsomania, debauchery, unemployment, and distress, adversities in life and possible marital difficulties must be searchingly investigated.

The very fact of the prisoner relating these data about himself, whereby the examining officer must carefully abstain from leading questions, will enable the examining officer to form a more or less complete picture of the prisoner's character, responsiveness, intellectual qualifications, emotional make-up, and the nature of his volitional control, without the prisoner being aware thereof or knowingly giving premeditated answers. When properly questioned, a prisoner will in the majority of cases talk quite openly to the examining officer who treats him with the required degree of human sympathy. Without being aware of it, the prisoner will thus not only show his own evolution, his disposition, his entire life history, but also the make-up of his character. In cases where the prisoner should manifest an intentional reserve and refusal, the very absence of communicativeness and his taciturnity will enable the examining officer to draw important conclusions with regard to the given individual's basic character. Accordingly, the success in diagnosing character is to a certain extent assured under all circumstances, regardless of how the

prisoner reacts to the necessity of making statements concerning himself, his life-history, his family, his criminal tendencies and his motives.

The result of the examination, in so far as the interpretation of character is concerned, will, to an experienced examiner, be always essentially positive. It should, furthermore, be born in mind what in 1923 Eugene Kahn (Yale University) quite justly pointed out in another connection, that simple people, when asked about persons of their customary environment give as a rule correct information for this reason that they observe and remember only such traits in their character, which because of specifically strong development must necessarily stand out distinctly in the given environment.

The next task of the examiner is to develop and to summarize the information gained from an exhaustive conversation with the prisoner into a complete, harmonious and scientific survey of the condition of the individual examined; in other words he must make a diagnosis along lines of biological heredity, psychiatry, psychology and sociology. In addition, each prisoner is anthropometrically and clinically examined.

The results of the examination are verified by means of official reports obtained from the localities of origin if the prisoners and supplemented whenever possible.

The final conclusions derived from all the items of information combined and particularly from the survey of the psychological and character make-up, yield on the one hand the social prognosis and on the other hand a knowledge of individual traits of character which may be of use for correctional treatment.

Prisoners who are not subject to examination by physicians are, however, being examined and classified by jurists, clergymen, and teachers attached to penitentiaries. Such examinations are conducted by means of the same questionnaires from which, however, specifically medical item of information pertaining to biological heredity, psychiatry, anthropology and clinical examination are eliminated; the questionnaires used are, therefore, in an abridged form and restricted to data of sociological and psychological nature. Investigations of this nature deal primarily with the environment and the character make-up of the prisoners. The prison physicians supplement these investigations, whenever a given case should so require, by such data, the ascertaining of which could not possibly be expected from examiners with a non-medical scientific training.

It is perfectly proper that functionaries other than physicians should be entrusted with psychological, characterological and sociological investigations. A state official whose profession it is to educate and to reform must under all circumstances be considered qualified to practice this profession of his on individuals, to study and understand them personally, to befriend them and to establish the contact which alone is essential in assuring success to the process of readjusting the personality of each convict.

The surveys compiled by examiners who are not physicians are also supplemented by official reports secured from localities of origin of the prisoners and also contain just as the surveys made by physicians, a social prognosis based on a classification or description according to character and to environment, as well as a statement concerning traits of character which may be made use of in connection with the punishment itself.

Both kinds of surveys made of prisoners entering the penitentiaries are considered as provisional and are accordingly verified and whenever necessary amended during the course of the term the given convict is serving. At the expiration of the term a social prognosis is made again in the form of a final report.

All reports on a prisoner constitute part and parcel of his personal file under the progressive system of punishment.

Copies of the reports and of all enclosures and appendices are collected in the Bavarian Central State Crimino-biological Bureau. The latter has its seat since 1930 in the German Psychiatric Research Institute in Munich. The Central Bavarian State Crimino-biological Bureau makes scientific use of the ever-increasing material of cases turned in by the Bavarian penal institutions; the director of the Bureau maintains a continuous contact with the leading research authorities in the field of biological heredity and psychiatry.

Another function of the Bavarian Central State Crimino-biological Bureau is to render expert crimino-biological opinions in recidivist cases. The material on which the crimino-biological expert, the director of the Bureau acting exclusively in this capacity, bases himself when drawing a picture of the personality of an offender, and at the same time making a sociological prognosis, consists of the crimino-biological report made for each prisoner, of the personal file of the latter compiled by the penal institution in which the given individual was confined and possible previous or newly started court records pertaining to the individual in question. Expert opinions of this kind have until now served only as sources of information for

the penal courts; in the new German penal code or code of penal procedure they will most likely constitute one of the phases of the penal proceedings. This will come to pass at a time when it will devolve upon the judge to keep in permanent confinement certain types of criminals who represent a permanent menace to society.

The present *modus procedendi* in Bavaria represents an experiment in applying biology to the study of the personality of criminals in connection with the administration of penal justice and to correctional punishment.

The Central Bavarian State Crimino-biological Bureau cooperates with the Bavarian State Bureau of Statistics in compiling criminal statistics along biological lines. For this purpose the existing crimino-biological reports are being condensed on individual file cards. Statisticians expect that by making full use along statistical lines of the ramified investigations of individuals and of their natural environment a very valuable and thus far not as yet existing picture of the criminal, of the criminal classes, of criminal careers, and of crime producing impulses and motives will be obtained. Such statistics will eventually be added to the other, federal and state statistics compiled in Germany in connection with crime study, and will serve to illustrate plastically the figures shown by the latter, from the point of view of the underlying causes.

Another task performed by the Central Bavarian State Crimino-biological Bureau is to make a card for each individual person mentioned in the detailed biological reports as belonging to the family or the environment of the convicts; each such card bears the full name of the given person and the number of the report from which it was taken. In time a complete inventory of the criminal class will thus be compiled; at the present time the number of individual cards is about 70,000.

By organizing a biological service in her penitentiaries Bavaria was the first in Germany to make a radical change in connection with an important phase in the administration of penal justice. The other German federal states have since followed suit; in 1923 the "Principles of Prison Treatment" endorsed by the federal states favored the introduction of the system of graded punishment in all of Germany and a thorough study of the personality of the convict was recognized as an essential basis of the aforesaid system of punishment.

In Saxony, Professor Fetscher, almost synchronously with Bavaria but independently of the latter compiled a card index of the

a-social class; he also succeeded to a very large degree in investigating most of the criminals and their kinsfolk. Hamburg organized in 1929 a central crimino-biological bureau after the Bavarian pattern; the idea was sponsored by the Prison Director Koch, a man of great vision as organizer; the central crimino-biological bureau, under the management of a physician, Dr. Clemenz, is affiliated with the penitentiary at Fuhlsbüttel. Prussia organized her crimino-biological service in 1930. In Austria it was Dr. Adolf Lenz, professor of penal law at the University of Graz and successor of the well-known criminologist Dr. Hans Gross, who was instrumental in building up a biological service as a scientific adjunct to the purely legal machinery of administering punishment. Prof. Lenz is also president of the International Crimino-biological Society which was organized in 1926 through the efforts of Prof. von Neureiter of Riga and of the author of this article. The permanent headquarters of the Society in question is affiliated with the Criminological Institute of the University of Graz; from there all scientific publications and reports of the congresses of the International Crimino-biological Society may be secured.

The Bavarian Ministry of Justice has thus far published three volumes of decrees, regulations and scientific material relating to "the system of graded punishment and the crimino-biological study of convicts in Bavarian penitentiaries." The publication in question may be secured at a cost of 15 Mark per set of three volumes from the Management of the Penitentiary at Straubing. A fourth volume which will contain the latest innovations is now in the course of preparation.

Bavaria made every effort to train and qualify the personnel of her penitentiaries for the new and important duties incumbent upon them under the system of graded punishment; in order to achieve this, repeated courses of instruction were held not only for the superior grades of officials who are entrusted with biological research work but also for the keepers and sundry functionaries.

It is impossible to judge after these few years since the system of graded punishment has been in operation whether and to what extent the reforming of a criminal is a success. The practical experience made by the personnel of the penitentiaries shows without doubt that in the case of a very large number of criminals the chances of reform are unquestionably unfavorable and that no hope could be entertained for a social re-adjustment in spite of every effort made in behalf of those individuals. It would be very harmful indeed to expect full results from the system of graded and correctional punish-

ment in each and every case. In the first place a good many criminals are unable, because of their inner psychic make-up or because of their intellectual or psychopathic or other inferiority, to comply with the standards of society as defined by the provisions of the penal law. In the second place the permanency of the unfavorable outer conditions of life to which the criminal perforce returns upon serving sentence abets relapse and breeds new crimes even though at times the criminal may have social instincts and sufficient volitional control.

It is, therefore, entirely a matter of correctional education to produce and to foster through enlightenment, instruction, and influence all the psychic factors on which volition along social lines is based; furthermore, those criminals who by comparison with others offer better promises of reform should when returned to freedom be morally and materially assisted through welfare agencies specializing in the care for released convicts.

For the time being the question of a lasting social readjustment should be treated with very great reserve. On the other hand, however, there is no doubt at all that the step made in the direction of probing into the psychological depths and of applying an individual, humane and well-meaning treatment in the penitentiaries, without by so doing prejudicing the necessary severity and sternness, changed the general situation in the penal institutions for the better. During the last ten years we have arrived in Bavaria, through the system of graded punishment and through putting the latter on a psychological basis, at an entirely new technique of handling criminals and have without doubt had by and large satisfactory results. Disciplinary punishments for all sorts of refractoriness have shown a sharp drop, the atmosphere of the prisons has grown calmer and hardships of confinement have been mitigated, particularly those hardships which in the days of incarceration pure and simple tormented some of the convicts far beyond the measure of the intended punishment, brought them into a false position with regard to their position for which they alone were responsible, incited them to rebellion and in the long run embittered and antagonized them against human society far more than they ever deterred them.

The system of graded punishment as well as the psychological study and analysis of the criminals constitute a great cultural achievement and a new departure in criminology if for no other reason than because of the present day advanced and scientifically sound ideas and conceptions of the human soul and of the treatment to be applied to human beings.