Journal of Criminal Law and Criminology

Volume 40 | Issue 5 Article 2

1950

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Recommended Citation
Olof Kinberg, Forensic Psychiatry without Metaphysics, 40 J. Crim. L. & Criminology 555 (1949-1950)

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FORENSIC PSYCHIATRY WITHOUT METAPHYSICS

Olof Kinberg

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Dr. Kinberg has published four articles in this JOURNAL: *Obligatory Psychiatric Examination of Certain Classes of Accused Persons*, Vol. II, 858 ff; *Alcohol and Criminality*, Vol. V, 569 ff; *Criminal Policy in Sweden during the last Ffty Years*, Vol. XXIV, 313 ff; *On So-Called Vagrancy: A Medico-Sociological Study*, Vol. XXIV, 409 ff.

The present paper was read at the International Congress on Mental Health in London.—EDITOR.

Ancient Greek and Roman physicians knew that mental disease was caused by pathological changes in the body. It had nothing to do with sin or moral guilt but only with natural biological causes. In conformity with this view, crimes committed by mentally diseased persons should not be punished. There is a letter from Marcus Aurelius to one of his proconsuls regarding a man who had murdered his mother in which he exhorts the proconsul to examine the delinquent carefully in order to know whether he is really insane or malingering. If the man is insane he should be spared punishment, "his state being sufficient punishment."

With the collapse of ancient civilization the biological outlook on mental diseases vanished and was replaced by the magic view of primitive cultures. Dark superstitions invaded the minds of men. The mentally diseased were mostly considered to be possessed by the devil or other evil spirits.

In other cases the malady was regarded as a just retribution for sins. Anyhow the mentally diseased were branded with evil. Accordingly their treatment was hard and cruel.

The theological view followed according to which mental illness was a just retribution for sins. Insane criminals had incurred a "moral guilt" and they had to pay for it by more or less heavy punishment according to the kind of crime. "Moral guilt" implied "free will," or freedom to choose this or that form of behavior. But empirical psychology cannot discover *will*. It finds only single, changing volitions as parts of the stream of total biopsychological events that occur in the minds of men. Free will is thus a baseless concept as a ground for punishment.

Various attempts have been made, nevertheless, to find a criterion or test of freedom. Thus, until a few years ago, the Swedish law declared that a man who did not have the "full use of his understanding" was not liable to punishment. The McNaghten case in England—1843—found a crucial test in the accused's ability to distinguish "right from wrong with respect to the acts with which he is charged." Psychiatric experience has taught us that such ignorance of moral values does not obtain except in some cases of profound mental disease or in high degrees of feeblemindedness.

The tests of "irresistible impulse," or of "lacking power to control" one's actions have also played an important part in the discussion of insane and feebleminded criminals. This is a mere play upon words because there are no psychological facts to support such tests. Men's reactions are the output of all the biopsychological forces that obtain in the organism at the moment of an action. Power to select and control action in the classic sense is a case of "a little man in man" which is a reintroduction of magic into psychology. Whenever sufficient individual and environmental conditions are present an act comes into existence and talk of "resistible" and irresistible" is void of meaning.

There have been attempts at giving a new content to the term "irresistible." These attempts came from different quarters, from conspicuous medical men—Forel, Kraepelin, etc.—and from jurists—v. Liszt, Alimena, Torp—but they were all failures. Some of them lead to absurd practical consequences; others are logically untenable. So, even this effort to save the concept of "imputability" was a failure.

But if there are no reliable tests of "imputability" and no means of giving a new and practical content to that concept, how is it possible to satisfy the pretended need for the Penal Laws to make a distinction between "imputable" and "not imputable," mentally diseased or abnormal offenders? The answer is that it is not possible. If there are still lawyers who believe in such a distinction, it is a belief without empirical foundation. When lawyers make great intellectual efforts to find such distinctive traits as could justify this keeping sheep and goats apart it is lost labor.

On the other hand it is not lost labor to purify Forensic Psychiatry and criminal policy from all elements belonging to theological and metaphysical ways of thinking which we have inherited from generations living under quite other conditions and lacking the knowledge of man and society furnished by

modern science. Instead of using our time and our forces in trying to solve metaphysical sham problems we should strive to put the correct questions belonging to the empirical and practical field where we are working.

Courts Should Know the Accused

The goal of criminal policy is to prevent crime. In order to reach that goal one must know as much as is humanly possible of man as a biopsychologically reacting organism. This knowledge must be at the disposal of the social agents concerned with the prevention and treatment of crime. Up to now, the courts of justice have been considered the principal agents of this kind. Whether this view is correct need not be discussed here.

Anyhow, as to the activity of the courts there is one postulate that is of paramount importance: *The court should always know on whom it passes sentence.*

This requirement may seem a truism. Nevertheless it is satisfied only to a small extent. For, barring the serious crimes which attract general attention—murder, grave sexual offenses, arson, etc.—the court's knowledge of the accused person is very sparse and often limited to the little interesting circumstances regarding the crime—objects stolen, sums embezzled, number of petty frauds, etc.—furnished by the police records.

Sentencing a man may be and often is decisive as to his fate. Therefore it seems to be a fair demand on society that its organs, the courts of justice, should not use their enormous power on the citizens lightheartedly, but be fully aware of the consequences of their decisions. If there were a "Charter of Natural Rights" this postulate should certainly be one of its items. Anyhow, in the uneven game between society with its enormous resources and an offender who is often quite alone and without the material and moral support of other people it seems reasonable to ask that he be given a fair chance of not being treated with greater harshness than is necessary to protect the legal rights of lawful citizens.

According to my view this thesis is the first postulate in the field of criminal policy.

The courts are not themselves able to procure all the necessary information on accused persons, since their technique in handling criminal cases prevents them from coming into the close contact with the accused and his surroundings which is needed for getting full information. Therefore, the court must resort to adequate agents. These are probation officers, social workers, psychologists and the forensic psychiatrists of whom

the latter by their medical and psychiatric training are best fitted to provide a many-sided and comprehensive information.

The important auxiliary task of the forensic psychiatrist in criminal policy has been strongly emphasized by our continuously increasing knowledge of the great frequency of mental disorders and feeblemindedness among delinquents. In countries where the mental examination of accused persons has reached a high development it has taken on a distinctly medico-sociological character with great stress on data belonging to the socio-psychological field. In the same countries mental examination has also become a regular part of the trial in a great number of criminal cases.

Responsibility of Forensic Psychiatry

Forensic psychiatry is not—as some people seem to think—a kind of hybrid between medicine and jurisprudence. Such a hybrid is a logical impossibility, since jurisprudence is concerned with rules of behavior whereas medicine is concerned with natural facts and the connections between events in the natural world. Therefore, forensic psychiatry is an empirical science whose objects are mental states in people in juridical situations where their mental conditions are considered of importance to legal decisions. As theological and metaphysical questions lie outside the field of competence of the forensic psychiatrist he has no obligation to answer questions of such a kind but must strictly keep to his task of giving such empirical medical psychological, and psychiatric information as may be at his disposal. Further, in distinguishing between different mental states he has to use only such traits as belong to his own science, excluding all characteristics derived from juridical, i.e. conventional, thought. So, for instance, if asked questions concerning "imputability" or "moral" and "criminal responsibility" he has to declare himself incompetent to answer such questions which do not belong to his field of knowledge.

On the contrary forensic psychiatry in criminal cases has several empirical and highly important tasks to fulfill. With all technical means of investigation it has to inquire whether the accused person suffers from mental disorders or deficiencies of any kind, including all traces of traumatic brain injuries and other brain lesions of encephalitic, allergic or other kinds. It has to describe such symptoms as may be found and diagnose, if possible, the nature of the pathological condition. It should try to make clear the characterological traits of the accused and his personal make up of what I call "constitutional radicals."

Further, it has to analyze the criminal behaviour of the accused from the viewpoint of criminal psychology, with special regard to the influence of pathological factors on his behaviour and of dangerous environmental situations in which he may have lived. This etiological analysis of the crime is of special value in order to determine the degree and kind of dangerousness in the accused. Then, the possible medical psychological and social treatment must be discussed, as well as the probable reactions of the accused to different measures of criminal policy. Finally, forensic psychiatry has to indicate the medical and social prognosis of the case.

There are several other reasons than the above mentioned why the court should try to know as much as possible about the individual and environmental conditions of accused persons.

During the last decades the measures of criminal policy have become more and more differentiated. In Sweden, besides punishment in the legal sense—fines, or different forms of imprisonment—there are eight different kinds of measures of security to be employed with regard to delinquents: conditional suspense from prosecution; suspended conviction; conditional sentence; treatment in reformatories for young offenders; confinement in an establishment of security for certain abnormal and dangerous criminals; internment in an establishment of security for certain dangerous recidivists; internment in an asylum for delinquents declared exempt from punishment by reason of mental disease, feeblemindedness or other mental disorders; internment in an establishment for alcoholics or delinquents declared exempt from punishment because of mental disease, feeblemindedness or other mental disorders not needing treatment in an asylum but needing treatment in an establishment for inebriates.

For the application of these different treatments the penal law states different formal and psychological prerequisites. In order to recognize some of these the court must resort to a mental examination.

There is still another important reason why the court must collaborate with the forensic psychiatrist to get the fullest possible information on the accused. As the court has to choose between so many different kinds of treatment of the offender it must know very well why it makes its choice. To ascertain the right choice the court must be able to anticipate the probable effect on the offender of the different ways of treatment at disposal in each case. If this knowledge is not to be sheer guesswork the court must be assisted by the forensic psychiatrist who

has much better means of knowing the offender's probable reactions on different measures of treatment after having studied his individual structure and the way he has reacted to earlier social and psychological stimuli.

All these circumstances have resulted in a very heavy increase of the number of mental examinations in Sweden. At the beginning of this century their number was about 60 a year. In 1927 the number was 207 and in the last years about 1500 which means a twenty-five fold increase of the number of mental examinations in about 40 years and implies that about every fifth person accused of a serious crime is mentally examined. The great number of examinations shows also that the courts of justice themselves are conscious of the need of fuller information on the accused persons whom they have to try.

Crimes Are Not always Followed by Punishment

In a kind of opposition to the above thesis that the court should know whom it is sentencing there is a sham postulate of penal law that every criminal offense should be followed by a punishment. The origin of this strange and unrealistic postulate may be omitted here. But perhaps it should be remembered that it does not exist either in primitive society or in Roman law.

In the real world this theoretical postulate has never been and can never be realized. It presupposes that all crimes are known, every criminal apprehended and every apprehended criminal sentenced. It is very questionable, too, whether it is desirable that every criminal offense should be known and punished. If it were possible it might throw a light on human frailty that would be most depressing and, perhaps, most dangerous to the general morality.

Besides, the penal law itself contains a number of exceptions from this sham-postulate. Such for instance are the conditional abstention from prosecution, the conditional conviction, the internment of young offenders in a reformatory, of insane and feebleminded in an asylum, of inebriates in an establishment for alcoholics, of certain abnormal delinquents and of certain habitual criminals in an establishment of security. All these forms of treatment are, at least in Sweden, considered as measures of security and not punishments and therefore imply an exception from the rule that crimes should be punished. Thus, the penal law itself has undermined this postulate by its own regulations.

The principal reason for the attitude of the criminal policy of our time that crimes should not regularly be followed by punishment is the growing insight that punishment as it is organized in most countries is not an indifferent way of treating human beings but a dangerous and not seldom a destructive one. It is not necesary to enumerate all the damaging physiological, psychological and moral effects of punishment. It may be sufficient to name one of them. The essential trait of punishment is to inflict suffering. But such suffering is more likely to elicit a defiant and vindictive attitude in the sufferer than positive moral and educative effects. Moreover, in conformity to this characteristic of punishment it is *retrospective in principle* whereas the measures of a constructive criminal policy ought to be *always and decidedly forward-looking.*

Parallel with the differentiating development of the practical measures of criminal policy in Sweden, there has been a successive emancipation of the ways of thinking on matters of forensic psychiatry and criminal policy from theological and metaphysical terms and concepts. The term "imputability" that was used in the law on retaining of certain abnormal and dangerous criminals in establishments of security disappeared on the last revision of this law. Likewise, in the different bills regarding treatment of different kinds of mentally disordered or feebleminded offenders elaborated during the last fifteen years all tests of imputability have disappeared. The last bill on exemption from punishment by reason of mental disorders of different kinds prepared by the Department of Justice in 1945 also lacked such tests. It reads:

> A criminal action committed by somebody who is mentally diseased or defective or whose mental state differs to such extent from the normal that he ought to be submitted to a special treatment shall be exempt from punishment. If somebody commits a criminal action in a state of temporary mental confusion he may not be sentenced to punishment.

By the influence of the Council of Law this very radical text was changed in a conservative direction. In its new form laid before the Riksdag and adopted by it, it reads as follows:

> Nobody may be declared liable for an act committed under the influence of insanity, feeblemindedness or other mental abnormality of such a serious nature as to be equivalent to insanity. If somebody has without his own fault accidentally come into such a state that he has lost the use of his senses, he may not be sentenced to punishment for an action committed in that state.

It is possible that this reading, too, may sound very radical in countries where theological and metaphysical ways of thinking still have a great influence on the legal stipulations as to

these questions. To Swedish ears it sounds unsatisfactory. In forensic psychiatric quarters in Sweden there is a marked discontent with this text, especially as regards the words "eqivalent to insanity" which are considered obscure or meaningless. In juridical quarters, too, this text has begun to be regarded as unsatisfactory and needing to be revised.

At the same time a new paragraph was adopted by the Riksdag. It reads:

> In certain cases, when somebody who has committed a crime deviates from the normal as regards his mental state he may be retained in an establishment of security instead of being punished. Stipulations are given in a special law.

Obviously, even in this paragraph the psychopathological prerequisite for the application of the law—which implies that the delinquents are exempt from punishment—is given in rather vague psychological terms. The purpose of this formulation is that it should not hamper, through strict legal definitions of states of mental disorder, the efforts of the courts of justice to choose the most adequate treatment.

Effect of Divergent Opinions of Mental Illness

One of the most, perhaps the most serious obstacle to a rational and adequate treatment of delinquents is the divergent opinions in matters of mental disorders, held by laymen and forensic psychiatrists. In old times, before the rise of psychiatry to a scientific level, the expressions used to designate people with mental disorders, "lunatics," "insane," "mad" and so on had about the same meaning to laymen and doctors. If somebody was "mad" according to the view of doctors the laymen were of the same opinion. Cases of exemption from punishment because of insanity were extremely rare and the question whether a criminal should be submitted to punishment was considered easy to answer.

Since the symptoms and causes of mental disorders have been better known to the psychiatrists this uniformity of opinion has disappeared. In conformity to the general medical principle that sick people should be submitted to medical treatment, the psychiatrists have contended that mentally diseased delinquents should not be punished but taken care of in other ways. During the whole nineteenth century there was a rather fierce struggle going on about the bodies and souls of insane delinquents between doctors, on the one hand, and prosecutors, judges, and other lawyers, on the other. The steadily increased knowledge on mental disorders has been continuously spread to laymen

but the gap still exists between mental disorder according to their views and to that of the psychiatrists.

The increased knowledge of the symptoms and nature of mental disease and the new refined methods of examination have brought about several important results. The frequency of brain diseases with mental symptoms is much greater than was believed earlier. This holds good especially of slight lesions of encephalitic or allergic origin and of the light epileptic lesions in persons who do not show seizures—ixophrenes. Persons affected by such lesions do not make the impression of being insane. On the contrary they may appear to be quite sound in mind and body but incidentally they may present symptoms of weakness, tiredness, dizziness and so on during which their capacity of work, their attentiveness, their preparedness to fulfil the tasks of life are lessened. In certain social situations new cravings put upon them may lead to maladjustment.

Further, the so-called borderline cases—which are in fact no borderline cases but special kinds of mental disorders—have attracted particular attention. These cases are nowadays called "psychopaths," which is however a very unsuccessful denomination since it puts a great number of very different psychopathological conditions under one single head. Now these "psychopaths" often display a more or less social behavior and their mental disorders may appear essentially as a lack of moral sense. This favours a moralizing outlook on these cases which is an obstacle to an objective and realistic view on their treatment. So they are often considered just wicked people and most folk forget to ask the reasons of their wickedness. Often the lack of moral sense is considered as something inherent in their natural make up and they are regarded as outcasts for whom one has no other feelings than moral reprobation.

But to the scientific mind it does not matter whether a lack of moral sense and behavior disorders depend on a misdevelopment or on lesions of a brain that was healthy until it was attacked by illness, since nobody has the power to choose the condition of his brain. During the nineteenth century the dissensions between psychiatrists and lawyers generally concerned insane criminals with delusions and hallucinations but who were lucid, logical, and of co-ordinated conduct. Now they bear on the light forms of cerebral lesions or misdevelopments without feeblemindedness. From a forensic psychiatric point of view the most important fact as to these cases is that the seemingly light medical symptoms may bring about as serious mal-

adjustments as the classical forms of insanity, the schizophrenic, manic-depressive, alcoholic psychosis and so on. Thus, as a factor of maladjustment and delinquency it may be equivalent to the classical forms of mental disease since it may imply the same handicaps for people to adapt their behavior to the moral standards obtaining at the time and place where they live.

The divergency of opinion concerning what are mental disorders and mental health, and the fact that insane delinquents, for instance, are exempt from punishment, implies that laymen —not only the newspaper readers and the audience at trials but also the prosecutors, the judges and the jurors—find it hard to grasp that delinquents who seem to them either ordinary people or extremely ugly customers are mentally diseased or abnormal people, as is maintained by the forensic psychiatrists. There has also been more or less vehement reactions against the conclusion of the experts that such people should be exempt from punishment, especially when they belong to the rather frequent category where the abnormality seems to manifest itself above all in a more or less complete absence of moral sense, so-called "moral insanity."

Scientific research on mental disease and abnormality is, however, making its way without worrying about more or less incidental and artificial lay opinions. But the administration of justice in criminal cases is not an esoteric activity that can be regulated by the opinion of a small group of scientists. Therefore, it is inevitable that some kind of practical compromise between scientific and lay opinions should be reached.

This could be effected only in one of two ways: either considering the treatment of mentally diseased persons as a punishment or abolishing the concept of punishment.

Against the first alternative very serious objections of a humane and practical nature could be raised. From time immemorial "lunacy" and "madness" have excluded punishment. If now medical treatment of the insane were to be considered a punishment this would undoubtedly be regarded as a relapse into barbarism.

To solve this dilemma there is nothing left but to abolish the concept of punishment itself.

This would not mean that all citizens should be considered "irresponsible." On the contrary, it would imply that all human beings living in the community would be considered socially responsible for such acts as have a social importance irrespective of their mental condition. The strange division of human beings in "responsible" and "irresponsible" would disappear.

But the response of society to human actions would vary according to the medical, psychological and social conditions of the individuals.

Neither would this view on the relation between individuals and society diminish the protection of the law-abiding citizens against criminal attacks. For, undoubtedly the more society applies adequate measures for discovering and treating such individuals as are on the way to delinquency and tries to make offenders socially adjusted by means of medical treatment and reeducative measures the more will the real volume of crime decrease.

Treatment of Delinquents

The opinion on the methods of treating delinquency which I have intimated above and which has slowly but steadily made its way in Sweden during the last three or four decades can be summarized as follows.

The frequency of mental disorders as factors of delinquency is much greater than was believed earlier. In fact, mental disorders and deficiencies play perhaps the greatest part in producing crimes, at least in the social conditions obtaining in Sweden. It is perhaps questionable whether they are equally important in countries where the assimilation of the elements of the population to one rather homogenous stock has not been achieved. Where racial and other divergencies between members of the community counteract the solidarity of the individuals with the whole, and where the social development is still in an unstable wavering and seething condition.

On account of the predominance of mental disorder in producing crime it is highly probable that the deterrent or moral-building action of the penal law is very much overestimated. Anyhow, the importance of this pretended action is not supported by evidence. In all cases where a man has committed a crime this action of penal law has been insufficient. Of the cases where penal law may have prevented people from committing crimes we know nothing. When particular individuals allege personal experience in support of this thesis it may be objected that human character being empirical its real nature is disclosed only by action or by abstaining from action. But it is a ticklish thing to know the causes behind an abstension from action.

There is another form of general prevention, however, which consists in efforts to discover such individuals as are menaced by a criminal development on account of brain-lesions, misdevelopment of the brain or unhappy environmental conditions

and to submit them to an adequate treatment. This kind of measure is preeminently important to the prevention of crime. Increased knowledge of the causes of crime, too, has taught us that purely medical treatment of criminals, as well as psychotherapy and an adaptive choice of social conditions are often much more effective preventive measures than the existence of penal laws and its administration.

Protective Law

Starting from these and other facts several practical conclusions as to the ways of organizing criminal policy have been made in Sweden.

First the dogma of the necessity of punishment must be abolished. In Sweden we hope to approach the time when we may be able to drop even the concept of punishment. Instead of penal law we are trying to prepare a protective law where the concept "protection" is taken in its double sense of protecting law-abiding citizens from attacks by dangerous people and protecting people with unsound brains or unfavorable surroundings from becoming delinquents. Since mental disorders and deficiencies are so often dominant causes of crime the first thing to do when a man has committed a crime is to take into consideration whether there may not be some mental disorders at the bottom of his behavior. He may suffer from a classical insanity, from encephalitic allergic or ixophrenic lesions, he may have had some head injury, he may be an alcoholic or other drug addict and so on. The court has to decide what treatment should be applied taking into consideration the statutory means of treatment in relation to the clinical psychological, and social findings brought to light by the mental examination. Instead of taking for granted that the accused person should be punished —which has up to now been the rule—the court should in the first place take into consideration whether any treatment at all is necessary for the protection of the individual himself or of society and if so whether he needs a special treatment of some kind—antidrug—or other medical treatment, psychotherapy, retaining or interning in an establishment of security, placing in a reformatory, etc. If so, the court should decide that he should be committed to the charge of the competent authority. Not until the court has found neither of these special treatments to be applicable should it decide that the accused should be put for a fixed time in an establishment corresponding to our prisons but where all regulations tending to produce suffering for its own sake should be abolished.

In my view the time seems already to be ripe for the abolition of the primitive, mediaeval and barbarous idea that punishment is the specific remedy for crime. It is also time to remove from the administration of justice the puerile methods of letting the judge look up in the Penal Code how many months or years of imprisonment is the proper treatment for the unlawful action of the prosecuted.

Instead the Court of Justice as an agent of criminal policy ought to put before itself the following questions:

"What kind of man is the delinquent?"

"What individual and environmental factors have made him commit just now the crime that he is prosecuted for."

"Is it necessary for the common welfare or for his own to react to his crime with any measure of criminal policy?"

Not until the judge has had these questions answered as correctly and fully as possible he should put the fourth and last question:

"What measures ought to be taken to prevent the delinquent from committing new crimes of the same or other kinds?"

A visible result of the opinion that it is not necessary for the common welfare or for the delinquent's to react to every crime with punishment or any other measure of criminal policy is the Swedish Law on Abstention from Indictment of 1944. In this law it is stipulated that such abstention may take place if the delinquent is less than eighteen years old, if he has been taken care of for protective education or other equivalent measure and it is probable that he will abstain from further delinquency or if the offense is slight and has been caused by mischief or precipitancy.

During the preparatory work on a revision of Penal Law it has also been discussed whether the age at which persons begin to be punishable should not be raised from 15 to 18 years. As everybody knows puberty implies as a rule a certain lack of mental balance connected with the profound changes going on in the organism. Nobody is mentally mature before eighteen years and most people not until several years later. Therefore, it is not fair to treat young and unmature persons as if they were grown ups with equal experience of the world and equal possibility of judging their situations and finding the rational adjustments to them.

This anti-metaphysical trend of Swedish thought can be traced in our attitude toward capital punishment.

The death penalty was not abolished in Sweden until 1921. But already since the third decade of the 19th century there

has been in Sweden a critical attitude towards the death penalty. In the 1862-63 Riksdag the Estate of Peasantry resolved that the death penalty should not be included in the new Penal Law—introduced in 1864—and in the Riksdag 1865-66 the same Estate unanimously passed a Bill ordering the suspension of the death penalty for ten years. The remaining Estates—the Nobility, the Clergy and the Burghers—rejected the Bill. In 1867, the abolition of the death penalty was moved in the Diet. The Bill was passed by the Second Chamber[1] but rejected by one single vote in the First. Thus it was only because of one man's opinion that capital punishment was not abolished in Sweden already in 1867.

Since 1865 sentences of death have been carried out in Sweden only in 15 cases, since 1900 only in two cases. Thus, the importance of the death penalty as a practical measure of criminal policy has been very slight.

In spite of the increasingly rare use of the death penalty serious crimes against persons have decreased considerably. From 1845-55 the average number of murders and attempted murders was 16 per million of the population annually. This average dropped in 1922 and 1923 after the abolition of capital punishment to 1,36. From 1922 to 1927 only 0,47 per million were condemned for murder.

To believers in the death penalty it might seem natural that our prisons should contain a great number of persons convicted to penal servitude for life. Now the actual number of such persons in Swedish prisons is four. This does not mean that our courts of justice after the trial let loose persons having committed murder. But in a great percentage of the cases it is recognized that the murderer is insane and therefore he is declared exempt from punishment and placed in an asylum. This holds good of all "family-murderers" of most "fiancée-killers" and of a lot of other types of murderers.

In several cases, though, the murderers are punished with penal servitude for life. This does not mean that the persons having incurred this punishment are kept in prison for the rest of their lives. On the contrary, they are conditionally released or pardoned after about ten years and restored to liberty. As murderers very seldom become recidivists they return to a more or less normal and useful life in society. This holds good, too, for persons who have been declared exempt from punishment by reason of mental disorders. When they have regained their

1 In 1866 there was a reform of the Constitution abolishing the Estates and replacing them by two Chambers.

mental health, which is not rare for instance among persons who have become family murderers under the influence of a depressive condition with religious delusions urging them to kill their children in order to spare them the theological consequences of sin, they are discharged from the asylum and go back to their ordinary occupations.

Finally, there has been in Sweden a growing insight that chronic alcoholism with pronounced medical symptoms is generally a state secondary to brain diseases, often light encephalitic or allergic disturbances. In conformity to this opinion alcoholic delinquents are often declared exempt from punishment and committed to establishments for the treatment of inebriates according to a special stipulation in the Law of Treatment of Inebriates. This attitude, too, contributes to decrease the number of persons condemned to punishment and thus to invalidate the sham postulate of penal law that all criminals should be punished. The number of prisoners in Swedish prisons also for the present time is only between 1900 and 2000.

In conclusion, I do not wish to give the impression that forensic psychiatry and criminal policy have reached an ideal level in Sweden. Everybody knows that when one lives in a country and has much to do with a special kind of its social institutions and their functioning one is more inclined to see their deficiencies than their advantages. That is our case too. We are fully conscious of the fact that the level of legislation is much higher than that of its practical application. This is quite natural, for it is much easier to make good laws than to make them function well, as good functioning presupposes an adequate staff. But such staff requires rational selection, long training, and tradition. As yet we have not had enough time to achieve this. On the contrary, for the time being we are badly lacking adequate medical staff for this work, doctors with sufficient training and possessing the many-sided knowledge necessary to cover the great field of forensic psychiatry and criminology being rather scarce.

But if we are permitted to lead our own life in the future as an independent nation and if the economic and financial situation of the country will improve we hope to do better work.