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978-0-521-10706-8 - Crimes of Violence by Mentally Abnormal Offenders: A Psychiatric and Epidemiological Study in the Federal German Republic

H. Hafner and W. Boker

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1 INTRODUCTION: THE PROBLEM VIEWED IN THE LIGHT OF THE PSYCHIATRIC LITERATURE

Attitude studies by American sociologists (Star, 1955; Cumming & Cumming, 1957; Nunnally, 1961) show that the layman has basically three criteria of mental illness:

1. Breakdown of rational mental functioning
2. Loss of self-control
3. Extremely inappropriate forms of social behaviour

Studying the population of the Federal Republic of Germany (GFR), both Jaekel & Wieser (1967) and Jaekel found a stereotyped view in which the mentally ill (who were clearly distinguished from those with other, less severe psychological disorders) were associated with loss of reason, unaccountable behaviour and to some extent dangerousness. It may well be that the intellectual element in this stereotype was hardened by descriptions such as frequently appeared in the early literature of forensic psychiatry and criminology of particularly dramatic and horrifying acts of violence committed by the mentally ill. Even today some well-known psychiatrists still adhere to the doctrine that unpredictable acts of violence may be an early and characteristic sign of incipient schizophrenia, and this, coupled with the usual popularisation of expert opinions, may well also have contributed to the general attitude.

The intellectual content of the stereotype also has emotional and behavioural implications. In practice it means that those concerned with the mentally ill, and to some extent also with the mentally retarded, are frequently subject to uncertainty and anxiety; they tend to be too solicitous and conciliatory, or to 'give them a wide berth'. There is no doubt that the latter form of behaviour contributes to the isolation of the mentally ill. According to current knowledge such factors have an unfavourable effect on the treatment and rehabilitation prospects of a large proportion of the mentally ill and mentally retarded. It is thus highly probable that the psychological repercussions of violent crimes committed by the mentally abnormal have their effect upon the actual situation of many of those who are mentally ill. On the other hand, some people react with denial. Indeed many symptoms of illness go unnoticed or are

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not taken seriously by relatives and observers outside the family. This may happen even when the patient behaves in a hostile or openly aggressive manner. Serious warning signs of this kind are often observed but no attention is paid to them, or they are immediately forgotten. This lessens the chance of successful prevention of actual violence by patients at risk.

It is certainly the aim of psychiatry to demolish negative prejudices which stand in the way of successful treatment and rehabilitation of the mentally ill and mentally retarded. Such an aim cannot, however, be achieved by naively substituting a new positive stereotype for the old negative one. The denial of illness or dangerousness, which is now more or less explicit in many theological, moral, sociological or political ideologies of mental illness, can help neither the patients nor their relatives, nor the small number who are actually at risk. Such an unrealistic development would produce a counter-reaction and both the trend and the reaction to it would be harmful to the patients. If we are to have effective, enlightened health education and successful preventive measures, we must promote attitudes that are based on reality and have a solid foundation in empirically acquired facts.

If we could have reasonably reliable data about the general risk of violence on the part of the mentally abnormal, and about the degree of 'dangerousness' which is characteristic of certain groups of illnesses, this would presumably provide us with an important means of encouraging the public to adopt a realistic attitude towards the mentally ill and the mentally retarded. More comprehensive knowledge about violent tendencies and about warning signs of actual violence, combined with possibilities of preventive treatment or improved protection, would constitute an important advance. If we can recognise the danger and take adequate action, generalised fears and helplessness will gradually subside.

What is the relationship between violence and mental illness? Can we hope for an unambiguous answer to this question, or will we lose our way in a maze of qualifications, in a multifactorial aetiology which may perhaps vary from illness to illness, from syndrome to syndrome, or which may even depend on personality? The French psychiatrist Esquirol (1772-1840) thought in fact that he had discovered a typical group of mentally ill murderers (his 'homicidal monomania') who, suffering from different mental illnesses and exhibiting different modes of behaviour, were said to be compelled by a single mysterious force, a 'pure instinctive drive', to commit murder. This theory was based on the assumption of a morbid drive as the single source of the pathological violence. A second monistic theory was based on the assumption of a morbid loss of 'moral' control of normal aggressiveness, i.e. of the atavistic elements in

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human nature. The concept of 'moral insanity' (Pritchard, 1835) was thus extended far beyond its original content of poorly endowed individuals with poor affect and 'innate' moral defects, and made to cover a generalised explanation of violence on the part of the mentally abnormal. This idea of 'moral defect' was further developed by Kahlbaum, Binswanger, Dubitscher, Megendorfer and others and was given a new and tendentiously monistic slant, particularly in Germany, by the doctrine of degeneration (see review by Häfner, 1959).

Schipkowensky (1938) finally attempted to provide a unitary explanation of violence by relating it to particular groups of illnesses. He regarded the majority of homicides committed by schizophrenics as the 'group of pure schizophrenic murder' and elevated this concept into a type of crime. Characteristic features of other psychiatric illnesses, such as the irritability of patients with organic cerebral disorders, the mood disorders of the epileptic, or the so-called raptus melancholicus, provided criteria for other illness-specific types of crime.

In contrast to these theories of the single or multiple aetiological associations between illness and violence, we have the concept that factors of personality and environment are just as important in causing violence, if not more important, than any psychosis which may subsequently set in. Theories of this kind cover such divergent trends as Lombroso's criminological school with its 'born criminal' and the doctrines of the social origins of crime. Any thorough empirical investigation of the problem must seek to determine the influence of factors from all three areas - genetics, environment and illness - taking account also of the motives and occasion of the crime.

The important question of the motives of violent and mentally disordered offenders points to a special problem in German psychiatry. Jaspers, proceeding from Dilthey's theory that anything that could be understood was psychological in origin, and anything that could not be understood was non-psychological in origin, based his 'phenomenological' methods on a false premise. His pupils added to the confusion of methods and theories. Gruhle (1947) declared, for example, that delusion was a condition that had no known cause and was basically not understandable: the process underlying it was therefore a physical one. If an endogenous psychosis of this kind gave rise to morbid behaviour, this too would be explicable in terms of the natural sciences, and not in terms of motivation. In its popular version this theory too has doubtless contributed to the idea that the more senseless an act of violence seems to be, the more likely it is that the violence is an expression

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of a mental disorder. In the practice of forensic psychiatry this reinforced the tendency to concede that offenders suffering from an endogenous psychosis were not responsible for their acts, or that their responsibility was greatly diminished, regardless of whether the acts in question were recognisably related to the illness or not. The extent to which motivation can generally be 'understood' is an open question, in cases of psychoses as in other cases, since even offenders who are not mentally disturbed often erect a barrier which prevents them themselves, as well as other people, from understanding the motive for their crime. Motivation research, and comparison of motives in mentally abnormal violent offenders, forms a legitimate area of scientific enquiry, however many difficulties it involves.

In 1967 the Ciba Foundation held a symposium in London on the subject of 'The Mentally Abnormal Offender', in which psychiatrists, psychologists, sociologists and criminologists from Great Britain, the USA, Denmark, Sweden and Holland discussed violent behaviour in the mentally ill and the mentally retarded. The papers presented dealt mainly with sensible methods of treatment and care for abnormal offenders, but considered also hypotheses about causes and questions of differential diagnosis and the incidence of criminally aggressive behaviour in the mentally ill. The reviews and discussions pointed impressively to the urgent need for more and better empirical data which would provide a basis for a reliable assessment of 'dangerousness' in various forms of mental illness and of the risk that mentally abnormal violent offenders may repeat their crimes.

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2 PREVIOUS STUDIES OF VIOLENCE IN THE MENTALLY ABNORMAL

2.1 General studies of the incidence of serious violent crime committed by mentally abnormal offenders

The era of typological case studies

Studies of violence in mentally abnormal offenders have been published chiefly by psychiatrists, though to some extent also by criminologists and jurists. In what follows we shall consider mainly the psychiatric studies, as they contribute most to our theme and, at least in some cases, offer opportunities of comparison with our own findings. This review of important papers selected from the vast international literature on the subject makes no claim to be comprehensive.

Our approach to the studies presented will be both methodological and historical, since we believe we can show that the formulation of the problem and the results obtained reflect a historical sequence of research concepts. From the early days of psychiatry down to some sections of current psychiatric literature, the interpretation of many research findings about the dangerousness of the mentally ill reflects contemporary concepts as well as the psychiatric theories which these concepts engendered. The agelong recognition which was accorded to some of these theories can hardly be understood without awareness of the historical implications of the manner in which certain scientific methods were applied and interpreted.

In the eighteenth and early nineteenth centuries, the dawning age of psychiatry, little if any interest was shown in the use of quantitative data to confirm relationships and predict risks of illness or violence. On the one hand hopes were pinned on the discovery of organic cerebral defects (Griesinger, Maudsley, Meynert, Wernicke), or of anomalies of skull formation (Lavater, Gall), while on the other hand the aim was to achieve an intuitive or speculative understanding of human nature (Heinroth, Carus, Ideler, and others) which would explain the causes of mental disturbances and of the abnormal behaviour of the mentally ill. Both sides used the case study method which had governed mediaeval medicine and still dominated the later medical scene. But it was not only

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professional circles who were interested: there was also an informed and sensation-hungry public, including men of letters, who in that age of change and crisis took a lively interest in the unusual individual case. They tried to find in the criminal a reflection of a human existence that was at once idealised and called into question, and they looked for this reflection in the extraordinary fate of an individual and its intricate relationship with the social and moral conflicts of the time. The question of a clear dividing line between mentally normal and mentally abnormal offenders was relegated by many authors to the background. De Pitaval's *Causes célèbres et intéressantes* (1739) and Von Feuerbach's *Merkwürdige Verbrechen* (1849) report numerous cases of violent crimes committed by mentally ill offenders, and both these works constitute striking examples of brilliant case analyses.

In the narrower professional field of forensic or criminal psychiatry the influence of Lombroso's *Delinquente nato* (1876) was still in evidence. Pinel's doctrine of monomania, which was energetically championed by Esquirol (1831), provided an early anthropological theory of the relationship between mental illness and violence: if due moderation was neglected, strong one-sided passions could come to dominate life to a dangerous extent. In extreme cases they exerted an irresistible compulsive pressure upon an individual's confused consciousness, forcing him to commit violent acts. While this theory, conceived around the end of the eighteenth and beginning of the nineteenth century, was soon regarded as out of date, the conviction still persisted that violence on the part of the mentally ill was just as immediate an outcome of the illness as, for example, a convulsive attack in epilepsy or St Vitus' dance in chorea. At the stage when it was still busy collecting material (in fact up to the present day), psychiatry, fascinated by extraordinary forms of behaviour, by abnormal experiences and by other signs of madness, compiled a catalogue of psychological phenomena which contains, alongside many important observations, a large number of items that can more properly be classed as museum specimens. As reports came to be increasingly restricted to the description of behaviour and of symptoms, anthropological theories withdrew more into the background. Theories of mental illness were increasingly based on the concurrence and course of certain symptoms. In their extreme form (K. Schneider, 1950) such doctrines offered no explanation or model of the inner relationships between these symptom clusters, nor was any attempt made to verify the nosological hypotheses by a statistical study of symptoms.

When we move from the individual case to the general question of the incidence of violence among the mentally ill, it is not surprising that the lack of a quantitative methodical approach showed itself clearly in ready

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generalisations based on the observation of cases. In the middle of the nineteenth century Karuth published a study of the public dangerousness of the mentally ill (1845) which affords a good example of the methods and concepts involved. Early textbooks and handbooks of forensic psychiatry (Krafft-Ebing, 1892; Cramer, 1908; Bumke, 1912; Hübner, 1914) likewise reflect the accepted and undisputed belief that the mentally ill were violent to a high degree. Since mental illness - which during the scientific epoch of medicine was assumed by most psychiatrists to be a form of cerebral disease that still had to be identified - was at the time regarded as providing an adequate explanation for the violence, conditions were ideal for the development of a general stereotyped view: the mentally ill, robbed of reason by a mysterious, inexplicable disease, are unpredictable and constitute a danger to the public.

As a result of this individual case study approach, interest turned meanwhile to the psychological and psychiatric typology of offenders and its relationship to various clinical conditions. Examples of this are to be found in Näcke's analysis of family murders and mental illness (1908) and Wetzel's paper on mass murderers (1920), both of which are very much orientated towards criminal psychology. Even Schipkowensky's case studies of schizophrenia and murder, published in 1938 and regarded until recently as the standard work on this theme, were still, in so far as the incidence of violence among the mentally ill was concerned, at the level of unconfirmed expressions of opinion: it has 'long been known that criminals, especially murderers, include a significant percentage of individuals who are mentally ill'.

The real significance of the case study period of research does not lie in the development of general and authoritative assertions, which are beyond the scope of its methodology and hypotheses, but in the pursuit of biographical, psychodynamic and social relationships in the individual case which later could form the basis of working hypotheses and research plans. A notable example is provided by Gaupp's reports on the well-known case of Headmaster Wagner (1914, 1938), who after a few excesses in sodomy, committed while under the influence of alcohol, believed he was being persecuted and condemned to destruction by the villagers and finally, years later, killed nine of them in delusional self-defence.⁽¹⁾ Gaupp's exemplary studies of the development of a paranoid delusion on the basis of personality, life history and environmental situation, were of far-reaching significance so far as the creation of hypotheses was concerned, not only in forensic psychiatry but also in important areas of clinical psychiatry.

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*The era of large-scale quantitative surveys**Attempts to provide comprehensive data*

The practical question of the measures and procedures required in order to achieve the 'protection of society from the public dangerousness of the mentally ill' (title of a detailed report by Aschaffenburg, 1912), has in modern times become increasingly urgent. In the end this was what led to the abandonment of case studies and typological speculation in favour of a search for empirical data. The populations in which the prevalence of violent mentally abnormal offenders could be calculated consisted of those convicted of violence and those committed to psychiatric institutions because of violent offences. Aschaffenburg, who undertook a study tour of several European countries in order to make as wide a survey as possible, came to the conclusion - a surprising one in view of contemporary beliefs - that 'out of every 50 000 inhabitants of a country, an average of at most one single mentally ill patient should be regarded as actually dangerous'. Statistical comparison of the proportion of dangerous patients in the total patient population of a few large psychiatric institutions in Switzerland, Holland, Baden and Prussia, showed similar low rates, so that Aschaffenburg concluded that the building of special institutions for dangerous abnormal criminals 'was not justified by any pressing need'.

In 1921 Rixen made an estimate of twice this rate, based on very heterogeneous and incomplete psychiatric reports and criminal statistics drawn from several European countries. Drawing attention to the higher rates found in large urban areas, he reported an average rate of 40 'dangerous mentally abnormal persons' per million of the population (Aschaffenburg's estimate was 20 per million). In fact these figures are not very different from the results obtained later using somewhat more reliable methods.

In the planning of epidemiological research programmes - and the question of the incidence of certain crimes among the mentally ill or the prevalence of a combination of mental illness and violence in the total population does fall within the sphere of epidemiological research - it has since been realised that it is necessary to maintain a clear distinction between case-finding and case identification (diagnosis, etc.). The two enquiries by Aschaffenburg (1912) and Rixen (1921), which set out to study the question of prevalence on the basis of clinical opinions, depended so far as diagnosis was concerned on hospital case records and court statistics and, so far as the violence or dangerousness of the offenders was concerned, on legal classifications of crime which to some extent reflected heterogeneous legal standards and rules of jurisprudence. The collection of data was thus affected by uncontrollable selective factors.

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As mentioned, case-finding was based essentially on an unrepresentative population, namely a selection from the records of different psychiatric hospitals and from statistics of convictions in courts whose criteria of documentation and standards of accuracy no doubt varied. One may nevertheless conclude that the transition from individual case studies to numerical studies based on heterogeneous statistics represented a considerable step forward. It led to the rejection of the idea that the mentally ill were more dangerous than the rest of the population and to the acceptance of a much lower prevalence rate for violent offenders. Such studies could not, however, be expected to yield more precise epidemiological data or provide an answer to detailed questions.

Studies of cohorts drawn from expert assessments and from patient records in psychiatric hospitals

Analyses of expert opinions. It was soon realised that from the point of view of research there were enormous advantages to be gained from using restricted samples of patients, defined by unambiguous criteria. The criteria most commonly used for case-finding were referral for psychiatric assessment to certain institutions within easily defined time limits, and commitment to a particular psychiatric hospital under Section 42b of the German Penal Code.⁽²⁾ A further advantage of studies of this kind carried out on small numbers is that the research findings and diagnoses have been arrived at in accordance with relatively uniform methods and criteria, and that detailed documentation in regard to symptoms and course of illness, as well as demographic and individual social data, make it possible to use the material for testing different hypotheses.

Natural samples of this kind, however, particularly when they include minor crimes, are subject to the operation of various selective processes which are of decisive importance when it comes to considering the predictive value of the findings. Bochnik *et al.* (1965), for example, regarded their statistical analysis of the forensic psychiatric assessments made by the University Psychiatric Clinic in Hamburg between 1946 and 1961 as throwing 'empirical light on a clinical test sample of the criminal population' and considered that their material was absolutely 'free from selective bias'. They overlooked the fact, however, that in the referral, acceptance and rejection of requests for expert assessment in a particular psychiatric clinic there may already be some selective factors at work.

In the first place it may be that the request for a psychiatric assessment made by the prosecutor or the court authority is not based exclusively on criteria concerned with the crime or the illness. Such requests are likely

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to be affected by judicial norms, by High Court decisions, by the opinions of the prosecuting office and of the judge, which are difficult to control, and finally by the fact that in criminal proceedings the defence has the right to request that a particular expert witness be called in. It cannot, moreover, be ruled out that a request for an expert opinion may be influenced by such factors as personality traits, social class, etc., which may be some of the factors that are due to be correlated later with illness rates or offender rates or other data obtained from the sample.

We have to bear in mind that the influence of such uncontrollable selective factors may be at its strongest precisely at the point when judges or prosecutors have to decide whether or not to ask for a psychiatric report in cases of minor crimes and less serious mental illnesses, such as in particular the neuroses, personality disorders (psychopathies) and similar states in which most judges and experts usually consider that Section 51, paras 1 and 2, of the Penal Code does not apply. We may assume that these factors have relatively little effect when the charge is a serious one, such as an attempt upon someone's life, or when the mental illness or defect in question is severe and obvious, as in the case of psychosis or mental deficiency, where it cannot easily be overlooked and where by legal definition there are valid grounds for requesting an expert opinion. It may be assumed that if both these criteria apply, almost every prosecutor and judge will ask for a psychiatric report or for committal. But here again samples based on assessments made by university psychiatric clinics are not representative, since in cases of crimes committed by individuals who are manifestly mentally ill or defective, especially if it is a second offence, the prosecutor will often order immediate detention in a state psychiatric hospital. The idea behind this is that any treatment or committal arising from subsequent proceedings, or from a decision under Section 51 para 1 that the accused is unfit to plead, can be put into effect without a transfer being required.

It must also be remembered that the low rates for reporting and solving certain crimes (e.g. sexual offences and offences against property) ensure that the number of persons charged and prosecuted, and hence the statistics of Federal convictions, forms a fairly unreliable selection of the total number of actual offenders in the population as a whole. So far as our own enquiry is concerned, we must bear in mind the possibility that for the mentally ill and the mentally defective the rate for solving crimes and bringing charges may be higher than for the mentally healthy and the more intelligent, just because our subjects are on the whole less successful in planning crimes and covering their tracks. The only crimes in which this