

THE PROBLEM OF JUVENILE DELINQUENCY

(By A. Cachia)

NOTHING stimulates and arouses in us emotions so diverse as the problem of juvenile delinquency. We cannot disregard the increasing importance of such a problem, and if we have to enquire into the stark reality it is only with a shameful eye but a merciful heart. Bacon says that "judges ought (so far as the law permitteth) to cast a severe eye upon the example, but a merciful eye upon the person." The reason is manifest. All anti-social tendencies require to be repressed ; and this is more so in the case of a child if we are to make of him a dutiful citizen rather than a hardened criminal. *Malta supplet aetatem*; Hale tells us, so that that if the offender is not *doli incapax* it is in the interest of all that the significance of his guilt be brought to his mind. But, on the other hand, we are not to lose sight of the fact that the transgressor is young—and here mercy comes in. There must have been something subversive in his education, in his environment, or maybe heredity has played its part as the criminal pedigrees of various young offenders show. Hence it is that "the law is disposed to look upon the child rather as a victim than as an aggressor, and to him it extends, with greater eagerness, its aid, its sympathy and its indulgence" (1).

The problem of the adolescent criminal becomes even more urgent in view of its insistence. In East London where the incidence of delinquency is very high one child in 300 is brought before the Juvenile Court every year, and the proportion is almost doubled in New York. Statistics reveal only the cases in which there has been police intervention so that as a London magistrate has observed "with vigilance sufficiently increased, the number of charges could be doubled, trebled, or quadrupled."

The whole subject is susceptible both to a scientific and to a legal treatment. What is of the utmost importance is not the crime committed but the criminal and before reforming the latter we cannot hope to get rid of the former. We must fight the cause to banish the symptoms. Plainly then it is a part of individual psychology.

The scientific investigator institutes an extensive research into the life-history of the offender. He builds a mould on which to reform the growing child. He examines the child thoroughly ascertaining in the first place his past history, what were the influences to which he was subjected and which probably led to the commission of the offence. This is a very vast enquiry, but still the work is not complete. The present situation of the child cannot be omitted in such an examination. The psychologist reconstructs with precision the emotions and reactions predominant during the actual transgression. Finally the child's future prospects must be safeguarded. This can only be achieved by a prolonged treatment because whatever his past

(1) C. Burt: *The Young Delinquent*, p. 20.

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records are his future movements may not easily be deduced. This methodical treatment of the child must thus be conducted in three different directions. The transgression itself is to be only one part of the examination. It is a mere outburst occasioned by some conflicting reactions in the offender's personality, and it only reveals to the experienced investigator the ingredients for which he must look. All this may seem rather impracticable and that in any case being based on presumptions it cannot lead to genuine results. But magic plays no part in psychology ; and it is surprising "how much of psychological treatment is little more than sound common sense applied by an expert" (2).

There is however a great divergence between the method of the psychologist and that of the magistrate as far as the age of the offender is concerned. Our law, for example, lays down that a child is *doli incapax* up to the age of 9 years. Such a "chronological cleavage" is indeed expedient for administrative needs, but it can hardly be accepted by the psychologist, notwithstanding that it takes into consideration the average child. The psychologist is not interested in birth-days and calendars and when a case presents itself to him he does not take the age of the child as conclusive for all practical purposes. What interests him is the actual intelligence and temperament of the child and these he assesses apart from any prejudiced conception based on the child's age. Professor Burt calls this intellectual development of the child "mental age" as distinct from "natural age". The magistrate on the other hand considers the "natural age" of the child as conclusive for all legal purposes which to the psychologist seems to be both arbitrary and unjust.

Apart from the minor disquisitions on the subject, it is important to consider the elements which acting together, one perhaps to a greater extent than the other, have instilled in the child a propensity towards delinquency. First and foremost the everlasting question of heredity presents itself to us—what influence, if any, have the hereditary conditions of the young offender on his personality? Some argue that heredity is the decisive factor on the principle that figs never grew upon thorn. The born-offender is "the foredoomed legatee of ancestral depravity and vice", and the question of uprooting his inborn tendencies is a hopeless undertaking.

Without committing ourselves to such an extreme it is to be admitted that certain elements are found in the personality of the young delinquent the sources of which are to be traced in his ancestry. It may also be that his mental power of discriminating between right and wrong is defective without impairing in the least his intellectual abilities. Thomas Wainwright, an inborn genius and a callous murderer, is more than we require as an example of this type of criminals. Some authors allege that this moral depravity is due to heredity which means in a few words the biological transmission of guilt. English Law denominates such persons as "moral imbeciles" and their misdeeds are presumed to be due to some "mental defect coupled with strong vicious or criminal propensities" (3). However heredity only enfeebles the child's potentialities who, as a consequence is more liable to fall into the snares of evil : it is in no way an irresistible impulse in that direction.

Another moulding influence in an individual's character is his early environment. Unless

(2) J. Watson : *The Child and the Magistrate*, p. 84.

(3) Mental Deficiency Act, 1913, Sec. I (d).

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one's physical constitution is strong enough one is sure to fall a prey to an eventual epidemic and likewise if the child is not brought up in the principles of right and justice the probable consequence is that the ravaging influences of his vicious environment take the upper hand. The home conditions and the family relations and affairs of the growing child are a decisive factor in shedding some light on the child's future behaviour. The home is for him (I speak of the normal type) a little world where he acts and reacts upon the example of his elders. I do not say that all evil tendencies which reveal themselves in the man have their roots in the experiences of childhood, but surely this is the time most favourable for sowing the seeds of crime.

Poverty is to a great extent the predominant feature in the majority of young delinquents. It has repercussions on the moral and physical constitution of the child and leads to various other evils. Poverty can have different meanings. The majority of writers rightly consider poor those who have not enough means for subsistence; others rather inappropriately make of poverty a relative term—the lack of means for maintaining a certain social standing, the outcome of irresistible desires on the one hand and insufficient means on the other. They argue with Seneca *si ad natum vives, nunquam eris pauper; si ad desiderium, nunquam, dives.*

Poverty leads to overcrowding in the home—various individuals of all ages and of both sexes are huddled together so that it is difficult to keep proper dignity and personal decorum. In such circumstances the child gets the worse of it. When the parlour, the kitchen and the nursery are all crammed into one room, how can the child give vent to his playful fancy? He is everywhere in the way, his mother sends him to play with his friends in the street, while generally his rather philosophical father goes to spend “a nice quiet evening” in the village pub depriving the home of his beneficial influence. In a word “the leisure hours are vacant; and an active mind in a joyless home will soon find mischief for the idle hand” (4). But we must not commit ourselves to saying that poverty is a propulsion to crime far that would be, as Stevenson puts it, “a calumny on the noble army of the poor.”

Poverty may be only one of the elements against which the youngster has to struggle to attain a normal degree of self-discipline. Various other subversive factors may exist within the immediate circle of his family relations and which, as a consequence, have an influence on his general behaviour from the very first moment when he is launched into the world. However no hard and fast rule can be laid down as to the effects such influences may produce because much depends on the manner in which the child reacts to his environment. I have treated of poverty comparatively at length not because it is the decisive element but because different writers maintain various and conflicting views on the subject. So much so that Healy (5) hardly touches upon the subject while Breckinridge and Abbot rather exaggerate the actual state of affairs in saying that “nine-tenths of the delinquent girls and three-fourths of the delinquent boys come from the homes of the poor” (6).

We may not argue however as Healy does that as troubles mainly originate in the home it is

(4) Burt, *op. cit.*, p. 91.

(5) *The Individual Delinquent.*

(6) *The Delinquent Child and the Home.*

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such homes that we must blame when a criminal type emerges. It is to be kept in mind that subversive conditions at school, evil companionships during leisure hours or during work, unemployment and various other environmental conditions may have a greater effect on the personality of the juvenile, though this is not generally the case. However, Professor Burt unhesitatingly asserts that "it is the personal reaction to a given situation that]makes a man a criminal, not the situation itself" (7).

The multifarious causes which engender a criminal propensity in the child are clearly, as I have said, mainly of psychological and social importance. Soon however the problem of juvenile delinquency turns out to be of a purely legal character when the child has to be brought up for trial and his punishment assessed.

Ever since Sir William Harcourt in 1880 emphasised to Queen Victoria that the child who finds himself committed with adult criminals "comes out of prison tainted in character amongst his former companions... and he soon lapses into the criminal class with whom he has been identified" (8), progress has been made in the treatment of young offenders. But we are indebted to America as the pioneer in the establishment of Juvenile Courts, for as early as 1881 Chicago had a Juvenile Court. In England the Children's Act of 1908 became the principal turning point and reforms have been carried out which greatly revolutionised the treatment of the young offender.

The importance of simplicity in these courts cannot be exaggerated. All precautions should be taken to ensure that the child is not bewildered and that he understands what is going on. An Oliver Twist "trembling at the awfulness of the scene" can hardly lead to the proper administration of justice. Moreover the Young Persons Act of 1933 provides that only those authorised or specially permitted may attend the proceedings and that no newspaper shall reveal anything that may lead to the identification of the child.

What is more interesting nowadays is the effect of war on juvenile delinquency, Generally every long war brings with it a wave of crime. During the Napoleonic wars a special committee was appointed as the increase in crime was alarming. In England during the Great War, 1914-18, the number of persons under 16 convicted for indictable offences increased from 14,325 in 1913 to 24,407 in 1917. Watson thinks that "so far as juvenile crime is concerned, it is well to bear in mind that children in war-time are intrinsically no more wicked than in time of peace." It is only that certain circumstances as absent fathers and mothers, severer lighting restrictions, intensive air-raids, excessive wages and evacuation "have combined to develop that spirit of mischief which in children, more often than not, is merely a younger and more-wayward brother to that spirit of adventure which we all admire" (9).

It is therefore of the utmost importance that great care should be taken especially nowadays to correct such wayward tendencies of young offenders. The war has brought destitution dis-

(7) Op. cit., p. 188.

(8) A. G. Gardiner: *The Life of Sir William Harcourt*, vol. I, p. 395.

(9) Watson, op. cit., pp. 20-21.

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ease and moral lassitude on many children but various scientific and social improvements have lightened the burden of poverty and sickness, and it is to be hoped that “what has thus been done for obstacles to health and happiness must now be attempted for the wider and profounder evils that beset the growing soul” (10).

(10) Burt, *op. cit.*, p. 22.