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MENTAL DEFICIENCY AND THE IMPORTANCE OF ITS RECOGNITION FROM A MEDICO- LEGAL STANDPOINT

ALFRED GORDON¹

The problem of the determination of the degree of culpability of an individual who has committed an anti-social act is sometimes associated with great difficulties. A variety of factors may enter into the solution of this problem. An illegal act may be committed accidentally or unexpectedly and independently of the individual's will. It may be committed under an unavoidable necessity, such as in cases of protection of ones self or ones family. It may be committed under the influence of extreme passion or anger, when consciousness becomes blurred and cerebral inhibition is obliterated. It may be committed by insane individuals whose delusional ideas, accompanied or not by hallucinatory images, develop morbid impulses or deliberate and well planned criminal tendencies. Finally, illegal acts may be committed by individuals who, though not insane in the strict sense of the word, are nevertheless different from normal individuals by their power of reasoning, by their sentiments, tastes, sympathies, etc. To this class belongs the large category of psychopathic individuals, and also the mental defectives. The discussion of the underlying psychological moments of each of these groups of individuals is comprised in an extensive literature. We will be concerned exclusively with the medico-legal relation of the latter group alone. In order to ascertain the degree of legal responsibility of mental defectives, it is necessary first to emphasize the characteristic clinical features of mental deficiency.

In considering all varieties of deviation from normal in the psychic sphere we find a long scale beginning with mental monstrosities and ending with slight mental feebleness. When the intellectual powers are involved in their entirety we deal with idiocy. When the arrest of mental development is only incomplete and is, therefore, compatible with the existence of some intellectual manifestations, we deal with imbecility. There are also individuals in whom only certain powers are likely to reach a degree of development; in whom there is no general, but only partial defect of intellectual powers. For example, one will show a meager power of intellectual acquisition, in another the power of judgment is defective; another is incapable of acquiring ele-

¹Alienist, 1812 Spruce St., Philadelphia.

mentary mathematical knowledge, or a knowledge of the natural sciences; in another the power of attention remains very elementary; others show a marked poverty in the power of reasoning, of generalizing, of abstracting, of memorizing, of associating ideas. This category of individuals manifests a conspicuous inequality of development of various intellectual powers, so that alongside the rudimentary powers normal ones may exist. The latter however, are continuously threatened in their normal function in view of the absence of synergic functions of affected powers. Sometimes these normal powers may attain a high degree of development. We witness then a sort of hypertrophy of certain aptitudes alongside the rudimentary ones. We see for example an extraordinary memory, an extraordinary ability for calculation, for music or other special and very limited knowledge. These individuals in spite of the considerable sum of knowledge in one special direction, which is acquired in a purely mechanical way, show at the same time a remarkable poverty and a striking deficiency in association of ideas, in abstract and scientific reasoning, in generalizations. The marvelous power which they possess is exceedingly restricted and when investigated closely, will fail to demonstrate a genuine critical activity. In all of them the power of mental elaboration is decidedly diminished or totally absent. The famous French shepherd, Inaudi, could not write or read and at the same time could figure out mentally the most complicated calculations.

There is still another group of mentally defectives which is by far the largest and the most common of all types. Certain individuals without presenting a partial or incomplete mental development, such as described above, undergo a more or less slow intellectual development. Their intelligence progresses by small degrees in an imperceptible manner, so that they attain their full development at a later age than the average normal person. They acquire general knowledge with greater difficulty. Their intelligence is consequently lower than in individuals of the same age. Their development is retarded. This delay in intellectual evolution naturally varies from individual to individual. Thus we have great variations and categories of mentally retarded individuals.

From the standpoint of mental responsibility before the law, it would be superfluous to dwell at length on the idiots. The complete absence of intelligence, of moral conceptions, of sensibility, places an insurmountable obstacle between idiots and the exterior world. Education has no hold on them, impressions leave no trace in them. Instinct alone guides their actions and their relation to others. Their

life is reduced to an automatic execution of vegetative functions. It is true that in higher grades of idiocy we may observe some elements of intellectual powers; we may observe even a certain susceptibility for a physical and mental training, but all these are only rudimentary and can never acquire a more or less considerable degree of development.

In imbecility we find rudiments of intellectual and moral development. The intellectual niveau is somewhat higher than in idiots which, therefore, permits certain acquisitions. With considerable amount of patience, perseverance and ingenuity one may succeed in training imbeciles in certain moral principles. However, moral development runs usually parallel with intellectual acquisitions. In spite of all efforts one can expect but a certain degree of mental development in an imbecile. His language remains poor as to the number of words; his articulation is defective; his expressions indicate poverty of thought; the character of his acts corresponds to his manner of thinking. In the sphere of morality he exhibits instinctive tendencies of a low order. Cruelty, vanity, gluttony, masturbation, sexual perversion, excesses of all kind, cowardice, unusual irritability are all characteristic of imbeciles and these characteristics lead frequently to all sorts of abnormal acts. Theft, arson, brutality, homicide—are not uncommon in imbeciles. A very interesting feature is the extraordinary tendency to imitation. For this reason we see in them sometimes a remarkable facility of assimilating certain visual and auditory impressions and thus they imitate in a striking manner gestures and acts. This power if imitation is not infrequently utilized by the imbecile in a dangerous direction. The sight of pictures of an adventurous character accompanied by cruel and barbarous conduct produces a deep impression on an imbecile and he thus conceives the idea of imitating such acts in real life.

Imbecility like idiocy presents gradations according to the extent of mental development of the individual. Thus we consider high and low degrees and between the two extremes we find intermediate types. The transition of one of these types into another is imperceptible.

Following up the intellectual niveau one step higher than in the imbecile, we enter the domain of the large group of mental feebleness, the study of which is of considerably higher importance from a sociological and legal standpoint than of that of idiocy and imbecility. Here we meet with a great many varieties and subvarieties and the transition of one into the other is imperceptible. This is the most important chapter in the study of mental deficiency, as the number of such individuals is legion. We find them with us very frequently, we deal with

them in innumerable transactions, we find them on school benches, as well as in business life. Their relation to the community frequently results in harm.

This group of individuals presents, speaking generally, a mentality inferior to the normal in quantity and quality. Their intellectual development is both delayed and reduced. The slowness of mental evolution and its lesser amplitude are characteristic. Thus for example the intelligence of a boy of twelve resembles that of a child of five. A closer scrutiny will reveal the fact that the intellectual powers here are fundamentally different from those of a normal child, viz., they are those of a pathological constitution of the brain which distinguishes the mentally deficient quantitatively from the normal individual.

Normally an individual requires for its full development a continuous and uninterrupted chain of new acquisitions. The latter teach him how to orient himself in its relations to the community. Education therefore, in its broadest sense, by means of intelligence, plays a most important rôle. Education and intelligence are two great factors in shaping the personality of the individual. Both have an enormous influence on the development of the so-called moral personality and on the adaptation of the latter to the requirements of the social environment. Moral conscience is the ensemble of conceptions which are formed in us under the influence of two factors. First, there is a natural emotivity in every individual which renders him responsive to right and wrong or to good and bad. Second, by means of intelligence our appreciation of right and wrong becomes more correct and more perfect. Intelligence brings to the moral ego the necessary elements for its guidance. These two elements, intellectual and emotional are inseparable in a normal individual and have a certain influence on each other and thus shape our moral life. Under the directing influence of intelligence the moral personality becomes established.

If we study the interrelation between intelligence and morality in the last category of mental deficiency we find the most interesting condition. In the majority of cases the decreased power of both factors runs parallel, although symptoms of one or the other may predominate.

On the preceding pages the character of the intellectual power was sufficiently emphasized. In view of the enormous influence of intelligence upon the shaping of the moral personality, the resulting moral debility is to be expected in the category of individuals which is the subject of the present study. It is a common observation that apart from idiocy and imbecility, one of the chief characteristics of the

feeble-minded individuals is an obtuseness of conscience. The elements of the latter are too feeble in the struggle against passions. It may happen that the mentally deficient has some conception of right or wrong, he may feel that he does wrong, but he does not possess the aversion which would be characteristic of a normal individual. The moral sentiments are not powerful enough, the voice of duty is not loud enough to be overcome by impulse. The cause of this disorder lies in the incomplete development of moral ideas. The want of judgment, of will, the weakness of character render the moral personality of the feeble-minded unstable, not resistant and thus they become an easy prey of their passions.

A more detailed examination of such a moral personality reveals the following characteristic features. The majority of the symptoms referable to the deviations in the moral sphere gravitate around the ego of the mentally deficient. Thus the ego becomes extravagantly accentuated. *Egotism* consequently is one of the most conspicuous symptoms of the entire picture. It may sometimes reach an extraordinary development. The mentally deficient individuals have no other thoughts but of themselves. Nothing moves them, nothing disturbs them except their own disturbances which they immeasurably amplify. What others do has no value; only their own accomplishments are important; their own thoughts and acts are alone irreproachable. Such a psychic orientation naturally leads to a dominating attitude and intolerance. *Envy* or *jealousy* is another derivative of egotism. It spares none. It may be directed towards strangers as well as towards nearest relatives, parents included. This anomalous sentiment if intensely developed becomes not infrequently the point of departure of persecutory delusions. If others are preferred to him, the mentally deficient individual believes himself maltreated or intentionally neglected, hence a delusional idea. Jealousy creates *defiance* and *doubt*. *Anger* and *hatred* are the next consequence of jealousy. The mentally deficient may develop a hatred towards the dearest and the nearest. As egotism is the predominating characteristic, there is absence of altruistic sentiments. Such individuals are almost entirely deprived of all affection for anyone. Cruelty and brutality are the natural consequence.

Among other typical features of mentally deficient individuals may be mentioned *impulsive* phenomena. They are spontaneous and involuntary psychic manifestations. They are observed also in cases of epilepsy, alcoholism and insanity. Normally our acts are controlled by two factors—desire or an impulse for action on one hand and rea-

soning on the other. The latter controls and inhibits the former. When the intellect is impaired or defective, the impulse predominates and the desired act is executed no matter how deleterious it may be. In such cases we observe frequently sudden impulsive acts in which neither reasoning nor will power intervene. Murder, assaults, arson or any other sort of heinous crime may be committed. In some cases the mentally deficient may yet at first attempt to reflect upon his premeditated act, he may yet appreciate the immorality and criminality of an illegal act, but the appreciation and meditation are not profound enough to overcome the obnoxious instinctive tendency and the individual succumbs to the latter. In some instances we observe most extraordinary inhuman methods and procedures with which an impulsive act is committed. Morbid impulses may be manifest not only in criminal acts of a gross nature, but also in minor acts. Thefts, kleptomania, incendiarism, passion for episodic vagabondage are a very frequent occurrence in mentally deficient persons. The tendency to excesses is commonly observed in these cases. The sexual sphere is particularly involved. The impulse for sexual satisfaction is sometimes so great that it overcomes the voice of reason and terminates in a criminal act. Quite frequently sexual passion is associated with perversion and the feeble-minded individual abandons himself to unnatural acts on animals, cadavers and on himself. In the domain of sexual perversion we find a great variety of phenomena. Exhibitionism consists of an irresistible impulse to expose the genitalia. Fetichism consists in a voluptuous desire produced either by the sight or contact with certain objects, such as a female skirt, shoes, shirt, etc., or else by an odor. Sadism consists of a sexual excitement produced by inflicting injuries on others such as pinching, biting, flagellating, etc. In Masochism the individual feels a sexual satisfaction by undergoing suffering inflicted by another person. Homosexuality or sexual inversion is another perversion which consists in a sexual passion for the same sex, viz., man for man, woman for woman.

To sum up the entire picture of mental deficiency except in idiocy and imbecility we find the following fundamental characteristics. There is a profound insufficiency of moral conscience which may present all degrees. Such a status of moral conceptions enters largely into the formation of abnormal thoughts and acts, and an individual of this category falls easily under undesirable influences. The mode of feeling and reacting deviates fundamentally from physiological conditions.

On the preceding pages the essential features of mental deficiency have been briefly depicted. We have seen that the two important ele-

ments of the personality, namely the intellectual and emotional do no more preserve the parallelism of the normal individual. The intelligence being feeble it has no more inhibiting power over the moral personality. Struggle against passions does not exist or exists in a small degree. Impulsive acts are characteristic. Mentally deficient individuals possess either an emotivity with exaltation in which great impulsiveness, sudden anger, extreme anger, violence and brutality are conspicuous, or else emotivity with depression in which they exhibit extreme timidity, extreme shyness or a tendency to solitude so that the resemblance to the attitude of a savage is in some cases striking. In some cases these two conditions may alternate. In all cases morbid tendencies, such as lying, stealing, excesses in all directions are present, and perversions of all varieties, especially of a sexual nature. It is evident that the impulsive acts of the mentally deficient individuals are the expression of lack of control of ideas over passions. As the cerebral centers are the source of ideas and of their association, we observe them here in a state of collapse; they appear to be withdrawn from the chain of mental activities. The impulses are no more under the control of cerebral centers which ordinarily regulate our actions, but they exercise their influence on the motor sphere by producing an excessive activity. In such cases naturally there can be no choice of action, each movement is the immediate result of sentiment. The acts are unconscious, they *must* be executed because they are out of the field of struggle which normally exists between reasoning and passion. The acts are therefore, mechanical, automatic and of a reflex nature. Not infrequently mentally deficient individuals complain of having no recollection of certain impulsive acts. As memory consists not only of the faculty of retaining impressions but also of reconstructing former ideas and sensations, and as during an impulsive act the latter particularly suffer, it stands to reason that the above mentioned cases of amnesia deserve special attention. This opens an important chapter on the responsibility of mentally deficient individuals before the law.

In a contribution entitled, "Medical versus Legal Responsibility,"² I made mention of the generally accepted test of "right and wrong" in considering the mental responsibility of individuals who happened to commit criminal acts. I have pointed out the injustice and scientific inaccuracy in using that test. I have brought forward examples of various mental affections in which, despite a psychic disorder, the conception of right and wrong may well be preserved. A pathologic state of mentality is characterized by a more or less marked diminution or

²Journal American Medical Association, September 18, 1909.

even abolition of the power of deliberation, of will, of self-control and yet the ability of understanding that an act is morally wrong or forbidden by law may be present in its integrity. Apart from certain psychoses this view holds good in the large category of mental deficiency which we are considering now. This subject is of a very great practical importance as we deal here not with insanity or qualitative changes of mind which are acquired in adult life, but with quantitative deficiencies inherent to the individual. The idiot and the low grade imbecile cannot be expected to realize the enormity and the lawlessness of a criminal act; but when an attempt is made to apply the classical legal test to cases of milder intellectual weakness, to the large group ranging between imbecility to simple backwardness, one is bound to appreciate its inapplicability. In the description of mental deficiency given on the foregoing pages we have seen, besides a certain degree of intellectual inferiority, a certain inaptitude to acquire knowledge, to perform mental operations of a more or less complex nature, but also and particularly an inherent deficiency of inhibitory power. We have seen that the whole life of mental defectives is composed of incidents of an instinctive nature, as the instinct predominates in them and, therefore, their actions are invariably the result of impulses. These individuals may be fully aware of the illegality of a certain act, they may fully realize that murder, assault, arson, deception which they commit are morally wrong and punishable by law and yet they cannot by reason of the very nature of their mental inferiority be held totally accountable for their actions.

When an individual's conscience is not completely developed; when judgment and will power are wanting; when egotism is pathological; when envy and hatred are intense and directed towards the dearest and nearest; when impulsive tendencies are conspicuous; when a thorough appreciation of acts and meditation are intrinsically not profound enough to overcome instinctive tendencies; when all these phenomena characterize mentally deficient individuals, phenomena which constitute an integral part of their abnormal make-up—the problem of mental responsibility may be solved without special difficulty. It requires no special stretch of imagination to see that individuals mentally inferior such as depicted above possess inferior and defective conceptions of right and wrong. The discrimination between the two is naturally faulty. They may recognize the illegality of an act, viz., that punishment by law may follow, but the fundamental and social value of a lawless act is not altogether accessible to their abnormal or defective intellectual and moral personality. It is therefore evident

that their responsibility can by no means be total; it must be limited. The established legal test of right and wrong cannot be applied to these cases and if it is applied, as it is frequently done, the results are bound to be disastrous as far as the administration of justice is concerned.

Those who create laws and those who administer justice view with very few exceptions only the social side of the law and usually are not at all interested in psychologic and medical studies which present a different concept of criminality and of the criminal himself. It is true that penal legislation and legal medicine are distinct and separate sciences, but positive criminology must rely on both branches of human knowledge. An intimate unity of these two sciences is an indispensable and an essential condition of progress. Criminology has for its object the formation of positive laws concerning crimes and the discovery of remedies for them. With this object in view it searches the truth wherever it can be found and takes from medical and legal sciences data which it needs to form a scientific foundation. By the union of the two sciences the old and too narrow boundaries of human conceptions of liberty and responsibility will be broken and progress will be assured. Our present knowledge of normal and pathologic processes in the psychic sphere, the proper appreciation of abnormal mental operations enable us to avoid errors in administering justice. To accomplish the latter, responsibility and irresponsibility must be viewed from the standpoint of broader principles than heretofore. Human liberty and responsibility are two most serious elements of life that can not be dealt with in a purely technical manner. In studying a crime, it is especially essential to study the criminal and in each crime we must distinguish two factors, viz., the conditions in which it was committed and the psychic characteristics of the author of the crime. The degree of responsibility should be established in accordance with the essential features of the mental status of the criminal. That the conception of limited responsibility is gaining ground is evident from the modifications which are being introduced in the Penal Codes of several countries. Thus in Norway, Siam, Russia, Switzerland, Japan, Austria and Germany various criminological projects are being considered with the view of giving legal recognition to the idea of partial responsibility. The characteristic psychic elements of mental deficiency as described above are sufficiently conspicuous and the very nature of these characteristics which constitute an integral part of the special make-up of feeble-minded individuals demands recognition when the problem of responsibility presents itself.