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MURDER AND THE DEATH PENALTY

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Many people have asserted that the murder rate in the United States is increasing at an alarming rate. This means that they believe the number of murders is increasing much more rapidly than the population. But if one, instead of making the assertion, tries to prove it, he finds the task impossible. For we have no statistics of murders, as such. We can only guess at the number of murders by a consideration of the number of homicides or the number of persons convicted of murder. The number of homicides is considerably larger than the number of murders, for it includes, in addition to murder and manslaughter, the excusable or justifiable homicides, such as the killing of a burglar by a householder, the killing in self-defense when one has been assaulted, or the killing of an escaping prisoner by a policeman or prison guard. No one knows what proportion of the homicides are excusable or justifiable, though a guess that about one-third of them are of this kind has been made. Thus the number of homicides is larger than the number of murders. And it is evident that some murders are not followed by convictions, and the number of convictions is therefore smaller than the number of murders. Consequently when we learn from the statistical reports of the State of Massachusetts that one hundred homicides are committed there in a year, and that twenty-five persons are convicted of murder or manslaughter there in a year, the only thing we know about the number of murders committed is that it is somewhere between twenty-five and one hundred.

If we knew that the ratio between the number of murders committed and the number of convictions of murder or the number of homicides were constant from decade to decade, we could draw conclusions regarding changes in the murder rate from either of these other figures. But there is no possibility of knowing whether this ratio is constant, and there are many reasons for suspecting that the ratio is not constant. Consequently the ordinary practice of drawing conclusions regarding changes in murder rates from the changes in homicide rates is logically invalid. But it is the only method that can be used, since we have no other statistics available.

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If one grants the assumption that the ratio between homicides and murders is fairly constant from decade to decade, he can still find no proof that murder is increasing appreciably in the United States in proportion to population. Superficial observers notice that the homicide rate in the United States was 2.1 per 100,000 population in 1900 and 8.4 per 100,000 population in 1922,² and conclude from this that we have four times as many murders in proportion to population as we had a generation ago. But a more careful study of the figures shows that the conclusion is not justified. The annual reports on mortality statistics by the Bureau of the Census, from which these figures are taken, were first issued in 1900, and the procedure during the first few years was far from reliable. In 1904 the Director of the Census gave warning that the reports on homicide up to and including that year were "incorrect and absolutely misleading."³ It was not until 1905 that the procedure was improved sufficiently to give the statistics of homicides any value. Consequently the figures before 1905 must be discarded.

The homicide rate increased from 4.6 per 100,000 population in 1905 to 8.4 per 100,000 population in 1922. But this increase seems to be due almost entirely to changes in the registration area from which the statistics of homicides were secured. For these figures do not refer to the entire population of the United States, but only to those cities and states in which the death records are sufficiently reliable to be accepted by the Bureau of the Census. This registration area included only forty per cent of the population of the United States in 1905; it includes eighty-eight per cent in 1922. In 1905 it was confined almost entirely to the North Atlantic states; in 1922 it included eleven of the Southern states, with their very large negro populations and their extremely high homicide rates. No valid conclusion regarding homicide rates in the United States in general can be drawn from a comparison of the rate in the North Atlantic states in 1905 with the rate in almost the entire United States in 1922. For the rates in the various sections differ immensely. It is necessary to compare the states in the registration area of 1905 with those same states in 1922, if one wishes a valid conclusion. Such a comparison is given in Table I. This table shows that there has been a general but small increase in the homicide rate. But the last five-year period is not yet completed, and the increase is so slight that it may be due to improvements in the statistical procedure.

²The last published report of the Bureau of the Census on Mortality Statistics is for the year 1922.

³United States Bureau of the Census, Mortality Statistics, 1900-1904, page LV.

TABLE 1

AVERAGE ANNUAL NUMBER OF HOMICIDES PER 100,000 POPULATION IN THE REGISTRATION STATES AS OF 1905, BY FIVE-YEAR PERIODS*

Years	Average Annual Homicide Rate
1905-1909	2.22
1910-1914	2.83
1915-1919	2.66
1920-1922	2.86

The statistics of homicides may be summarized also by a comparison of the rates in the registration cities and states in 1912 and 1922. Sixty-one cities of 100,000 population or more were in the registration area from 1912 to 1922; of these twenty-nine had a lower homicide rate in 1922 than in 1912, twenty-nine had a higher rate in 1922 than in 1912, and three had the same rates in 1922 and 1912. Twenty-three states were in the registration area from 1912 to 1922; one of these had the same rate in 1922 as in 1912, eleven had a higher rate and eleven had a lower rate in 1922 than in 1912. These figures indicate that the homicide rates were practically the same at the end as at the beginning of the decade.

Such statistics do not prove that murder is not increasing. Murder may be increasing while homicides are remaining constant. But there is no way of proving the assertion that murder is increasing.

But even if murder is not increasing in the United States we have approximately ten times as many homicides in the United States as in England in proportion to population, and probably we have about ten times as many murders as in England. The principal reason for this difference between the United States and England is the difference in the composition of the populations. The United States has a homicide rate about ten times as high as England for the same reason that Florida has a homicide rate about twenty-two times as high as Vermont, except that it is not entirely due to the presence of negroes. The homicide rate of whites in the registration area of the United States in 1922 was 5.6, of all colored 34.7. The homicide rate of Chinese in the registration area was 155.6 in 1921. Among the industrial policy holders of the Metropolitan Life Insurance Company only tuberculosis and pneumonia rank higher than homicide as a cause of death of young-adult negro males.

The colored people in the United States have a very high death rate by homicide partly because they are the victims of race riots, but principally because they kill each other in individual or group quarrels.

This seems to be true, also, of some of the Italian groups and some other immigrant groups. According to the police report, forty-one negroes were murdered in Chicago in the year 1921-1922 and of these thirty-three were murdered by other negroes; and seventy-one Italians were murdered, of whom sixty-seven were murdered by other Italians. In Washington, D. C., in the period 1915-1919, eighty-seven negroes were murdered, of whom eighty were murdered by other negroes. The names of the victims of murder or manslaughter (taking as a sample only those whose names begin with the letter S) and of those indicted for these murders in Massachusetts in 1922 were as follows:

Name of Victim	Name of Person Indicted
Hagop Sarkisian	John Bedrosian
Michael Scarpone	Joseph Simboli, Luigi De Padova, Guiseppe Anzardo
Guiseppe Simboli	Stefano Militello, Antonio Bianco
Carlo Simscalchi	Guiseppe Parisi
Frank E. Small.....	Albert W. Bartless (alias)
Frederico Spirito	Biagno Visella

This list of names is fairly typical of the names that have appeared in the reports of the Attorney-General of Massachusetts during the last generation. It is not wise to place much dependence on names as an indication of nationality, but when taken with the other evidence, this leads to the conclusion that a very large proportion of the homicides in these foreign groups are due to the acts of other members of the same foreign group. Some of these groups bring with them to this country a special code of honor and membership in societies such as the camorra or the tongs, and the killings are the result of this. There is evidence that the children of Italian immigrants do not commit the crimes of violence which are so characteristic of their parents more frequently than do the native-born of native parentage.⁴ And all of these groups are to a large extent outside of American culture, not in contact with Americans, isolated in the midst of our society. Not even the negroes have come into real contact with American culture. England has practically no negroes, Chinese, Italians, or Mexicans. If we could exclude from our statistics the killings of such persons in riots and the killings of such persons by other members of their own groups, we should probably have a homicide rate higher than that of England, to be sure, but certainly much less than ten times as high.

Other things than the difference in the composition of the population need to be taken into consideration in explaining the higher

⁴See Journal of Applied Sociology, vol. 9, page 54, September-October, 1924.

homicide rate of the United States. But there is no good evidence that the difference in the penalties for murder is of great significance. It is a fact that the death penalty is used frequently in England and the homicide rate is low. But it is a fact, also, that the death penalty is used frequently in the Southern states and the homicide rate there is high. There is no proof of causal connection in either case.

The evidence regarding the correlation between the death penalty and the homicide rate in the United States is, in brief, as follows: The homicide rate is almost exactly twice as high in the states that have abolished the death penalty as in those that have retained the death penalty. The average homicide rate in 1922 in the North Central states that had retained the death penalty was 7.7, as contrasted with a rate of 4.4 in the North Central states that had abolished the death penalty. The median homicide rate in 1922 in cities of 100,000 population or more in states that retained the death penalty was 8.1, as contrasted with a rate of 6.5 in cities in states that had abolished the death penalty; and if the comparison is restricted to cities in the North Central states the figures are 11.8 and 3.1 respectively. In every such comparison that can be made within the United States it is found that the homicide rate is lower in the cities and states in which the death penalty is illegal. But this does not prove that the homicide rate is lower *because* the death penalty has been abolished. These cities and states differ from each other in many other respects and especially in the composition of the population. It is probable that the death penalty is abolished because the homicide rate is low rather than that the homicide rates are low because the death penalty has been abolished. And the homicide rates vary widely from city to city within the same state and from year to year within the same city though the laws remain the same. In Ohio, for instance, the homicide rate in 1920 was 19.5 in Akron, 6.0 in Cincinnati, and 5.2 in Dayton; but in 1922 it was 5.3 in Akron, 16.5 in Cincinnati, and 12.4 in Dayton. In Michigan, where the death penalty is illegal, the homicide rate in 1920 was 2.2 in Grand Rapids, and 13.7 in Detroit; in 1922 it was 1.4 in Grand Rapids and 8.7 in Detroit. Thus legislation regarding the death penalty seems to make no significant difference in the homicide rates.

Some people have made much of the fact that certain states, such as Missouri, Oregon, and Washington, after abolishing the death penalty, have restored it, being convinced that murder increased when the possibility of inflicting the death penalty was removed. But the homicide statistics, inadequate as they are as a measure of murder

rates, gives no good basis for such a conclusion. In Missouri the homicide rate was very much higher in 1917, the year in which the death penalty was abolished, than it had been in 1916; and the homicide rate decreased in Missouri in 1919 and 1920, after the death penalty was restored. But the homicide rate in 1918, the only complete calendar year in which the death penalty was illegal, was almost exactly the same as in the years 1916 and 1921, when the death penalty was legal. Moreover, the changes in the rates in Missouri were typical of the changes in the other states in which no changes in legislation were made during this period. In exactly half of these other registration states the homicide rate was higher in 1917 than in 1916; and it was higher in 1918 than in 1920 in forty-eight per cent of these other states. The direction and the extent of the changes in the homicide rates of Missouri from 1916 to 1921 were almost identical, year by year, with those of Ohio, though no changes were made in the death-penalty laws of Ohio during this period. That leads one to believe that the changes in the homicide rates of Missouri would have been practically the same if no changes had been made in the death-penalty laws of that state in 1917 and 1919.

The assertions regarding homicide rates in Oregon and Washington are similarly lacking in proof. The homicide rate in Washington was lower from 1913 to 1919, when the death penalty was illegal, than it had been previously; but the rate was still lower after 1919, when the death penalty was restored. In Oregon the homicide rate was lower during the period when the death penalty was illegal than after the restoration of the death penalty in 1920. There is no evidence that murder will increase if the death penalty is abolished and will decrease if it is restored.

But the death penalty may not be used, even if it is legal. The death penalty was legal in Kansas until 1907 but was not inflicted once between 1876 and 1907. In Massachusetts about fifty persons are convicted in an average biennium of murder or manslaughter and about one of them is executed. But it is quite impossible to prove that the actual use of the death penalty is a more effective deterrent than the other penalties for murder. If one studies small areas such as a city, the number of executions is so small and varies so much that no assertion regarding the relation between murder rates and executions is justified. And if one studies a larger area, there are so many differences in the composition of the population and in other factors that no case can be made out regarding the relation between executions and the murder rates.

Thus the conclusion is that there is no evidence of a significant relation between the murder rate and the possibility or practice of using the death penalty as a punishment for murder. There may be such a significant relation but it cannot be demonstrated. Most people who hold such a belief have not tried to verify it. It seems to them to be merely a matter of common sense. This means that one assumes that he would be deterred more effectively by the death penalty than by anything else and he concludes that those who commit murder would have been deterred more effectively if the death penalty had been fairly certain. One may be mistaken even in regard to himself in this process of rationalization, but it is certainly a mistake to assume that persons who commit murder have the same motives and the same mental processes and social situations as those who prescribe for them. We are slowly learning that common sense is not an adequate basis for policies of social control. We are substituting for it the policy of science, which is an understanding of the nature of the processes one wishes to control. In the fields in which we have made the most wonderful progress we have abandoned prejudice and common sense and substituted science. The best prospect for the control of crime, similarly, is to study as scientifically as possible those who commit crimes and the situations in which the criminal attitudes are developed. This means a great deal more than a classification of the offenders as feeble-minded, insane, or psychopathic. It is necessary to understand the physiological and social processes that underlie the criminalistic attitudes. If such studies could be made in a large number of cases we would know much more than we now know about why people commit murder and we would then have a basis for policies of deterring people from committing murder. The death penalty might be found useful for this purpose, but if so, it would not be an appeal to ignorance or common sense or magic, but it would be because a thorough understanding of the situation and of the processes concerned would justify such a conclusion.

The problem of the death penalty is important primarily because it is the point at which those who wish to act on the basis of prejudice, magic, and common sense meet those who wish to act on the basis of a scientific understanding of the processes at work in the causation of crime. Some "sentimentalists," to be sure, oppose the death penalty because of the loss of life in this way. But the number of persons whose lives are taken by legal executions is not more than a hundred a year; and even if all who are convicted of murder in the first degree were executed, the number would probably not exceed six

or seven hundred a year. This number of lives, considering the nature of the lives, is not worth the effort; more than one hundred times as many lives are lost in automobile accidents. If one were interested in saving lives he could spend his time to much better advantage on the problem of automobile accidents. But for the sake of securing a method of solving the problem of crime it is important to insist on scientific study of those who commit the crimes.