

Marian Cieślak, Karol Spett, Władysław Wolter, *Psychiatria w procesie karnym* [Psychiatry in Legal Proceedings], Warszawa 1968, Wydawnictwo Prawnicze, 478 pages.

The collective work *Psychiatry in Legal Proceedings* is an exceptional position in our literature on forensic psychiatry because its co-authors, along with professor Spett a psychiatrist, are professors: Marian Cieślak and Władysław Wolter, who make an exhaustive and thorough analysis of psychiatric problems from the point of view of criminal, material and trial law.

As for many legal problems raised in the book, I shall confine myself to discussing only a few questions which are particularly important for forensic psychiatry practice. Primarily, mention is due to professor Wolter's views on the criteria of "other disturbances of mental functions" which may cause insanity or reduced responsibility and, in the author's opinion, can be of non-pathological nature. The author says that " 'disturbances' understood as 'disorders' or the word 'disturbances' replaced by the word 'disorders' show that the third cause of insanity is understood more narrowly. Differences of opinions were particularly strong in cases of non-pathological drunkennes. But there are no such differences in the theory and practice of criminal law, which were and are against restricting the concept of other mental disturbances to cases of pathological disorders." (p. 28).

It must be added that from the point of view of psychopathology the notion "disturbance of mental functions" is equal to the criteria of "disorders" of those functions.

Cases of "toxin poisoning," "non-pathological drunkennes" (p. 29) are the best proof of that. Every alcoholic intoxication causes disturbances of normal mental functions of varying intensity.

But mental disturbances must not be identified with disorders caused by

mental illness; we may rate as disturbances very intensive "sthenic or asthenic emotions such as anger or fear" etc., all types of mental disturbances may appear during pubescence, menstruation, pregnancy.

The notion of "other mental disturbances" is very broad. It is perhaps useful to explain that since the new Penal Code uses the term "mental deficiency" instead of "psychic deficiency" (not used any more in psychiatry), notions of psychopathy and all personality disorders are put under one collective term "other disturbances of mental functions" (instead of "other mental disorders" suggested by psychiatrists).

Analysing the cases of deep alcoholic intoxication which is not the same as "pathologic drunkenness" (which always brings the verdict of insanity) we must not forget that any state of deep alcoholic intoxication is unquestionably a disturbance, of mental functions and as such is a pathologic case. The term "pathologic drunkenness" used by legislation only in unusual cases of drunkenness with short psychotic symptoms should not prejudice the essential question, namely that every disorder (disturbance) of mental functions is a psychopathological case.

Very important is the chapter in which professor Wolter discusses — in connection with Article 9 of the New Penal Code — the problem of juvenile offenders who are already above 16 and can be punished for definite offences but "one of the conditions for holding them responsible in spite of their minority is that the qualities of the offender should confirm that." Professor Wolter is right when he writes (p. 51) that disturbances of mental functions (and we may add — of personality disorders which are so frequently seen in the majority of juvenile delinquents) observed in an offender aged between 16 and 17 "would hardly contribute to punishing him/her as an adult."

Referring to medical preventive measures professor Wolf brings to attention an essential matter, namely that "a threat to legal order is posed not by the likelihood of just any forbidden act being committed but only of such an offence which involves a higher degree of social harmfulness, in particular when it is an attempt on life or health, creation of a general danger, etc." (p. 52).

Professor Cieślak is the author of three extensive chapters: "Significance of Deviations from Mental Norms in Polish Criminal Law," "The Role of Psychiatrist's Expert Opinion in Polish Legal Proceedings," "Specific Problems of Opinions Given by Psychiatrists." These chapters, to which a rich bibliography is added, deal extensively with all problems involved in the role of psychiatry in a legal proceedings. The problems are so numerous that it would be impossible to discuss all of them in this review. But there is one unsolved matter which needs being mentioned in the least: whether and to what lengths an expert psychiatrist can give his/her opinion on certain rulings of the court made during an expert appraisal, should he/she always formulate conclusions that the accused was incapable of judging the nature and quality of the act he had done or of conducting his behaviour, or else that this capability was strongly reduced. Professor Cieślak has no doubts on this question but he makes it a point that in questions of legal judgements the opinions of psychiatrists are subject to a special control of a court organ which is an authority in this respect. Although in practice psychiatrists are required to formulate such legal judgements it seems debatable whether it lies within their competence to spell out these judgements.

A careful and detailed opinion of a psychiatrist should provide the court with competent material and diagnosis enabling the latter to give a correct judgement, that is whether to qualify a given case under the article on insanity or reduced responsibility, to what hospital or else penitentiary house the offender should be sent, whether some personality disorders of the accused would not justify a more lenient verdict, etc. Of course, to comply with these requirements both prosecutors and judges should possess sufficient knowledge of forensic psychiatry. It often happens that psychiatrists describe in very general terms the characteristic features of the personality of the accused and the state of mind he/she was in while committing an offence and then arrive at a legal conclusion without corroborating it by convincing results of a medical examination. A psychiatric opinion containing a legal judgement is not within the competence of a psychiatrist. This is proved by typical cases of offences made under the effects of deep drunkenness while psychiatrists contend that the ability of the accused to judge his/her act were not meaningfully reduced.

I would like to mention one more question raised by professor Cieślak, namely, whether in case of a divided opinion the court should ask other psychiatrists to give their opinion or not. Professor Cieślak thinks that the court may but "does not have to do that," adding that a majority of "votes does not necessarily proves that they are right." But it seems unquestionable that an additional examination by psychiatrists with high qualifications is indispensable when controversial opinions are divided on some essential question (e.g. diagnosis). Since in many cases an expert opinion of a psychiatrist affects in a "decisive" manner a verdict which may even be a death sentence, it would be advisable to secure additional psychiatric opinions even when the differences do not involve essential problems.

The most comprehensive part of the book by professor K. Spett, devoted to psychiatric-legal problems, is a well-knit work both on general and special psychopathology. Its high scientific level is matched by a clear and simple presentation of psychiatric problems which make the work understandable even for people not versed in medicine.

Since it is impossible to discuss all of the important views of the author which deserve being mentioned, I will confine myself to making a few remarks only. Professor Spett is right to use the criteria of insanity or reduced responsibility, taking primarily into consideration the psychopathologic underlay of certain symptoms and diagnoses. So, he does not reject the possibility of qualifying some psychopaths or a definite category of people with abnormal sexual impulse among persons with a meaningfully reduced ability to guide their behaviour, justly emphasizing the need to put such people under medical or preventive care. The author gives much space to distant effects of crane and brain traumas which can be expressed in various psychic anomalies often underestimated in practice. He discusses also mental disorders appearing in certain somatic diseases and quotes instructive casuistry that explains how important, for instance, is in some cases diagnostication of hypoglycaemia which may cause stupor during which murder was committed. On problem of alcoholism, professor Spett says that in cases of intoxication on a pathological basis or abnormal reactions to alcohol, jurisdiction sometimes fails to produce a correct verdict. On the other hand, a widespread habit not to question the sanity of alcohol addicts and chronic alcoholics who

have not developed any distinct characteropathic or dementive symptoms, may arouse objections.

It is quite clear that an expert psychiatrist should give his/her opinion about the effects of a punishment upon an epileptic, especially when imprisonment is involved. As professor Cieślak rightly remarked: "a psychiatrist will not trespass his/her competence if he/she gives an opinion about the type of punishment and its possible effects on the health (especially mental health) of the accused or when he/she advises on the type of preventive measures that ought to be taken. For its part, the court must not forget to secure a medical opinion in such cases" (p. 357). It must be also remembered that under article 100 of the new Penal Code when an offender is put into a hospital, even if he is very dangerous for public order and sentenced to imprisonment, the court decides before he is released from hospital whether the verdict must be carried into effect.

Among many interesting problems analysed by professor Spett I would like to draw attention to cases (although rare) of schizophrenia which started with a murder followed by months of apparent normality before symptoms of illness made themselves visible (pp. 295 - 296). Worth mentioning are also some specific cases often underestimated in practice, namely that some prisoners "develop such intensive neuroses that they are practically in the same state as people affected by a mental illness. In such cases the verdict is suspended or interrupted and the prisoner sent for an appropriate medical treatment" (p. 325).

It is impossible, in a brief review, to describe all interesting opinions of the authors of the *Psychiatry in Legal Proceedings* or to bring to attention a number of important problems. In conclusion I want to underline that the book under review is an important position in our rather scanty literature on forensic psychiatry and that it will be certainly most useful both for lawyers and psychiatrists.

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