

Russian roulette with mental health

In no other federal state are as many people admitted to psychiatric units against their will as in Bavaria: the numbers add up to around 60,000 a year, almost two and a half times as many as in Baden-Wuerttemberg. Now the free state is revising the corresponding legislation. As in other federal states, this law will in future be known as the *Psychisch-Kranken-Hilfe-Gesetz* (Act on Assistance for Persons with Mental Illness). However, our author is critical of the new regulations and does not believe that they provide appropriate support for persons with psychiatric disorders. On the contrary, these patients are classified as a danger to the public.

TEXT **GUNDA WOESSNER**

In April 2018, Jens R. drove a van into a crowd of people in Muenster. Four people died, several were seriously injured, and the perpetrator shot himself at the scene. A short time later, it turned out that the driver was mentally unstable and

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drove deliberately into the crowd. In March 2015, Germanwings pilot Andreas L. crashed an *Airbus A320* in the French Alps, killing almost 150 people. He had been receiving psychiatric treatment for some time. One summer evening in June 2013, Manuel F., who suffered from schizophrenia, stood naked in the Neptune Fountain in Berlin and attacked a police officer with a knife. The police officer subsequently shot him dead.

These prominent, widely publicized examples reinforce the impression that people with psychiatric disorders are a danger to the public. The police in particular often see them as a singularly dangerous group of people. Depending on the context and study, incidents involving people with mental illness account for between ten and 30 percent of all police contacts. The police are usually called on to help when mentally ill people are suffering crises with which other people or institutions are barely able to cope. This reinforces the subjective impression among the police that people with psychiatric disorders are a particular problem.

According to a non-representative survey of police commissioner candidates, only around ten percent believe that mentally ill people are no more dangerous than people whose mental health is sound. Moreover, half of those questioned stated a belief that mentally ill people are unpredictable. In

Vague unease: people with psychiatric disorders are often believed to be unpredictable or even dangerous – and unfairly so. In actual fact, only a few of them behave aggressively.



the Eurobarometer survey on mental well-being conducted in 2006, 37 percent of respondents stated that people with psychiatric disorders were a danger to others, and nearly two thirds were convinced that psychiatric patients are unpredictable. This survey is representative of the general population.

Does this mean that it is legitimate and even appropriate to focus security policy measures on mentally ill people?

This is precisely the intention of the Bavarian Act on Assistance for Persons with Mental Illness (*Psychisch-Kranken-Hilfe-Gesetz*), which was passed by

Mentally ill people were locked away with criminals until well into the 17th century

the Bavarian cabinet and discussed in the regional parliament, the Landtag, after its first reading in April. According to the first draft of this law, people with mental health problems were to be held in psychiatric units and reported to the police. The police also had to be informed when they were discharged. The patient's data was to be stored in a central file which could also be accessed by the security authorities. This draft was based on the Bavarian laws on hospital treatment orders and preventive detention. In other words, people with psychiatric disorders were to be treated like criminals. The draft law has since been made less severe, but only in response to pressure from professional associations. The Bavarian state government has now distanced itself from the idea of a central file of psychiatric inpatient records. Moreover, averting danger is no longer the primary objective, as was the case in the original draft; instead, the focus has shifted to the treatment and cure of patients with psychiatric disorders.

In actual fact, only a very small percentage of mentally ill people attract attention due to violent behavior, as various international studies conducted

in recent years have shown. In the public arena, however, media interest – as we have seen – centers on spectacular killings, which makes it difficult for laypersons to take a differentiated view and form their own opinions. As a result, the belief that people with psychiatric disorders are dangerous has become ingrained.

Scientific findings, on the other hand, allow for a more nuanced view. Psychiatric illness can have many faces: depression, anxiety disorders, post-traumatic stress disorders, eating disorders, addiction, psychosis and dementia, to name just a few. Only a very few patients with mental illness belong to the risk group that is prone to violence. Moreover, violent outbursts are invariably associated with additional factors, as for example in the case of schizophrenia, which is more often linked with acts of violence than other psychiatric illnesses. In the case of delusional disorders such as those that can occur with schizophrenia, the risk of the patient becoming violent strongly depends on the nature of the delusion.

It also depends on whether or not the patient is under pressure, has a drug problem, is receiving psychiatric or psychotherapeutic treatment, and whether the disorder has become chronic. In fact, international studies show that less than ten percent of those suffering from schizophrenia commit violent crimes. Even though this percentage is higher among patients who also have some form of addiction, there are still only a very few patients in these risk groups who actually commit acts of violence.

The risk of violence is even lower in the case of all other psychiatric disorders, with the exception of drug addiction, alcoholism and certain personality disorders. It is of course important to take the actual potential risk seriously – for example when people suffering from delusion threaten to harm others. However, this does not permit the assumption that the risk is general. A study of 36,000 people conducted recently in the U.S. showed that anxiety disorders, for example, are in no way associated with violence. In the case of people with depression, the risk of self-harm is more prominent than the risk of aggression directed against others. Moreover, depending on the psychiatric disorder in question, the



age of the patient, the duration and progression of the disorder, and various socio-economic factors also influence the specific probability of a mentally ill person becoming violent. These findings have been confirmed by various studies from a number of European countries. There is consequently no simple causal connection between mental illness and violence, even in risk groups.

These empirical findings directly oppose the alleged first-hand experiences for example of the police, which emerge in stereotypes about the mentally ill. The result is the fueling of prejudices reminiscent of times believed to be long gone.

Criminals who commit serious crimes and people with psychiatric disorders have fascinated “normal” people since time immemorial. There is something uncanny about them, something alien, that fosters fear and uncertainty. At the same time, attitudes towards them are somewhat sensationalist. The associated ideas and myths are deeply rooted in history and still contribute significantly to the modern-day view that people with mental illness are one step away from criminals. For centuries, criminal behavior and psychiatric illness were attributed to the same cause. Mentally ill people were locked away with criminals until well into the 17th century, as both groups were believed to be dangerous.

The establishment of hospitals and nursing institutions for the mentally ill at the beginning of the 20th century marked a new chapter in the treatment of people with psychiatric disorders. Nevertheless, patients in so-called lunatic asylums were still more commonly associated linguistically and in the public perception with prisoners and criminals than with sick people. It is a well known fact that the Nazis cruelly pushed the exclusion of “asocial” persons such as criminals or the mentally ill to extremes. Both groups – criminals and the mentally disturbed – were designated “unworthy of life” and fulfilled the selection criteria for forced sterilization and euthanasia.

Although it seemed in recent years that the stigmatization of people with psychiatric disorders was subsiding, it now appears to be on the rise again despite all the public information campaigns. One representative study conducted in Germany shows how

attitudes towards the mentally ill changed between 1990 and 2013. While the number of people in favor of treating psychiatric disorders with psychotherapy or psychotropic drugs increased, a significantly higher percentage of those questioned in 2013 stated that they were afraid of people with mental illness and felt uncomfortable in their presence than was the case 23 years earlier. In all, hostility towards people with psychiatric disorders rose. These developments are disturbing. In fact, they seem almost absurd considering that one third of the German population succumbs to at least one mental disorder every year. Around one in four people will become mentally ill at some point during their lives. Mental illness is the fourth most common reason for work incapacity, ahead of cardiovascular disease and infections. Consequently it can affect any one of us.

The first draft of the new Bavarian law on assistance for persons with mental illness reflects many of these prejudices, citing risk prevention as the “primary objective” of hospitalization, for example.

There has not even been an attempt to establish a clear definition of when a person constitutes a threat

The treatment and cure of psychiatric patients was merely said to be “an additional objective”. Other clauses in the draft law also put mentally ill people almost on a par with people who pose a threat to the public. The hospitalized patient would for example only have the right to notify a trusted person if this were consistent with the objective of the hospital treatment.

The courts and police were also to be informed when the patient was due to be discharged. This new clause was justified by the claim that the police had not always been able to ensure that measures required in individual cases would be implemented in



a timely manner. According to the Documents of the Bavarian Landtag on draft legislation, this situation is not really acceptable from the viewpoint of risk prevention. This reflects an alarming development. The mentally ill are presented as dangerous people who have to be kept under police observation. This stigmatization marginalizes them even further, quite apart from the fact it is incomprehensible how and to what the police wish to react when they are informed that a hospitalized person is to be discharged.

Professional associations that criticize the new law rightly refer to the fatal consequences for the people concerned. One significant criticism related to the risk of mentally ill people becoming increasingly marginalized. It is by all means possible that the uncertainty provoked by the draft law has placed an additional obstacle in the way of patients in need of psychiatric and psychotherapeutic treatment. Considering the growing risk of aggressive behavior in risk groups that are not undergoing treatment, the law may have actually exacerbated the threat of acts of violence rather than reducing it. It is frustrating to see how little empirically proven links and the effect of the intended measures were taken into account during the legislative process.

Incidentally, the same applies to other laws that allegedly serve the purpose of keeping the population safe. A similar situation occurred when the new Federal Criminal Police Act (*Bundeskriminalamtsgesetz – BKAG*) raised the possibility of expanding surveillance activities to include the electronic tagging of people who constituted a threat. The federal government mentioned several ways in which this would prevent criminal activity. First and foremost, the person under surveillance would be deterred from performing acts of terrorism as they would be aware that the risk of discovery was greater. Secondly, the police would be able to intervene more quickly in cases where violations triggered an alarm, for example because the person under surveillance had entered potential targets for attack such as railway stations or airports. Moreover, electronic tagging would also prevent tag wearers from traveling to countries where they would be able to take part in terrorist training camps. Yet there is no empirical ev-

idence of such effects. On the contrary, it is unlikely that anyone plotting a terrorist attack would be deterred by cost/benefit considerations. There are other measures by which people can be prevented from traveling abroad. Furthermore, alerting the police more quickly in the event of reported violations would not prevent attacks completely.

There are also parallels with regard to the unclear terminology. There has not even been an attempt to establish a clear definition of when a person consti-

Traditional notions go hand in hand with fantasies of government control

tutes a threat. Consequently there is something arbitrary about the classification of people who are or pose a threat, particularly when the reason cited for hospitalization is that the patient constitutes a risk to the common good, as formulated in the draft of the law on assistance for persons with mental illness. The preconditions should be evaluable and clearly defined, especially in the case of substantial interference in the freedoms guaranteed by Basic Law such as the sectioning of people with psychiatric disorders. The European Court of Human Rights, for example, expressly draws attention to the need to protect people with mental illness from arbitrary treatment, particularly with regard to hospitalization.

Merely the fact that the free state of Bavaria wished to enact a law on assistance for persons with mental illness with the aim of averting threats makes it very clear where its interests lie. As with the recently passed law on police duties or the law on more effective surveillance for dangerous persons that came into force in summer last year, the priority is to combat alleged “threats” with ever more far-reaching powers of intervention.

Traditional populist ideas consequently go hand in hand with promises of safety and control fanta-

sies on the part of the state that endanger the liberal society based on principles of solidarity that we have created. This is of course not only the case in Bavaria. The thrust throughout Germany is probably at least comparable: a focus on persons who are vaguely assumed to be dangerous, the extreme extension of police powers for intervening at a very early stage of risk, and greater flexibility in the preconditions for intervention. At the beginning of May this year, these fears drove tens of thousands of Bavarian citizens onto the streets of Munich to demonstrate against the planned law on police duties; they were joined by thousands of other demonstrators from all over Germany who were concerned about our fundamental rights.

Laws that reinforce stigmatization and promote simplified concepts of good and evil do not help make society more stable. In fact, they are more likely to divide it. It is therefore important to remember that sensational acts of violence by mentally ill people are only isolated occurrences, and that a law on assistance for the mentally ill must generally aim to achieve a better quality of inpatient care and treatment for people with psychiatric disorders. At most, the police need improved education and training in dealing with mentally unstable persons when traditional forms of police intervention are no longer effective. This should include basic and differentiated knowledge of psychiatric disorders, which to some extent is already covered by police training curricula. The police could also learn from critical reflection on cases in which firearms were used on people with mental illnesses. A modern police force should not shy from this type of introspection.

A meaningful, enlightened criminal and social policy must be oriented on scientific knowledge and standards, not on populist trends. It is wrong to react to vague anxieties on the part of the population with equally vague, undifferentiated, populist measures. On the contrary, the right thing to do is to reflect on empirical insights, envision the effects of each measure, and venture on anti-stigmatization campaigns and better education. Here a contribution can be made by raising public awareness of scientific findings. ◀



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