

INSTITUTE OF CURRENT WORLD AFFAIRS

To Begin With

JLS-1

B.: I say, I've never understood why [psychiatrists] take degrees in medicine.

D.: What ought they to take degrees in, then?

B.: In law, of course! All a matter of talk! The more they talk, the more highly they are considered. And the first thing they tell you is that they don't work miracles--when a miracle's just what is wanted! But they know that the more they say they are not miracle-workers, the more folk believe in their seriousness.

Pirandello, Henry IV

29 West 17th Street
New York, New York 10011
September 10, 1973

Mr. Richard H. Nolte
Institute of Current World Affairs
535 Fifth Avenue
New York, New York 10017

Dear Mr. Nolte,

It would be easier if there were a snappy title for the area I've chosen to investigate, a word like psycholaw or legipsychology, but there isn't. "Alienist," the secondary meaning of which is "an expert in the legal aspects of psychiatry," comes close, but it is an obsolete term, it names the worker and not his field, and it is inappropriate for aesthetic and public relations reasons. In fact, my field is three of them--hopefully with a common boundary in at least one corner.

1. Psychiatry and Law. This in its widest scope is a legal, analytical look at mental health administration and the rights of the mentally ill. It is concerned with the validity of diagnostic categories and medical-legal labels and their practical consequences: madness and sanity; illness, health, and cure; abnormality and normality; incompetence and competence; dangerous and treatable.

- How should the State supervise the dispensing of services to the mentally ill?
- Is psychiatry a proper source of moral values? Is it used as though it were?
- When should a person be helped against his will?

--Does an involuntary patient have a right to adequate treatment?

--When is a patient competent to participate in decisions regarding his therapy, particularly psychosurgery, electroshock therapy, and drug treatment? What is informed consent?

--Should mental illness be a defense to criminal responsibility?

2. Psychoanalysis and Jurisprudence. This is a look at law from a psychoanalytical point of view. Our laws reflect an image of man--his nature, motivations, limitations, and possibilities. Psychoanalysis has tried to discover and describe the nature of man (it may indeed be the most complete picture of ourselves we have yet developed), and thus should be of considerable use in solving some kinds of legal problems.

--What are the chief elements of the psychoanalytic picture?

--What are the assumptions about men that our laws reflect, and how do they fare next to the findings of psychoanalysis?

--Does the development of law, for example, presuppose an id--which would destroy men and their institutions in the absence of external controls? What is the relationship between our internal mechanisms of control and external controls?

--If psychoanalysis itself is not a proper source of moral values, can it still help us discover discrepancies between existing legal rules and acknowledged values

--Is psychoanalysis a science or even a complete picture?

3. Psychoanalysis and If your answer to the last question was no or maybe, you will share my interest in alternative theories of man. Through the years a number of leading psychoanalysts have explored other theories, and using their work as a starting point one can begin to set psychoanalysis in its proper context--as a single point of view among many others,

including behaviorism, shamanism, and buddhism.

--What are the chief elements of these alternative pictures of man? How do they view the unconscious, dreams, knowledge?

--What are their concepts of therapy, illness and cure? How do these contrast with the concepts of psychoanalysis?

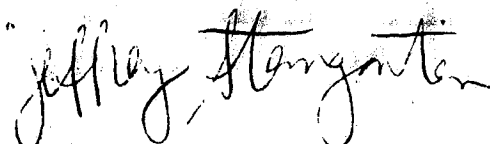
--What are their notions of responsibility for one's own well-being and the well-being of others?

--Can the methods we have learned in studying psychoanalysis and jurisprudence be profitably applied to other pictures of man?

The field of psychiatry and law reaches into the courts, administrative agencies, hospitals, literature, law firms, doctors' offices, newspapers, research institutes, law schools, and people's lives. These are the places I'll look for answers to the questions I've posed. (I have been approached by a group trying to set up a mental health community in upstate New York for my legal advice on how they can comply with the state mental health laws and regulations, and I will report on my work with them in a future newsletter.) Psychoanalysis and jurisprudence is an academic study. I will begin by attending a seminar with that name at Yale over the next four months and by studying on my own the classics of psychoanalysis from Freud to Erikson. Psychoanalysis and (or, Comparative Psychology), while also an academic study to begin with, may from time to time demand first-hand investigation.

In my next newsletter I shall discuss the story of a man who recently completed an involuntary 21-year stay in New York State mental hospitals and the issues his case raises for psychiatry and law.

Sincerely,


Jeffrey Steingarten