

From **Lombroso's Crocodile**
to the **closure of the OPGs**
(**Ospedali Psichiatrici**
Giudiziari) = **Security Units**
in Italy

In our Country the *Ospedali
Psichiatrici
Giudiziari/Security Units.*

were once called, with a
maybe *crude* but realistic
term: **Criminal Asylums**

Abroad they either speak of **phorensic wards** or about **phorensic hospitals**, or about “security units”.

It means places of internement in which **the control prevails by far on the cure**.

Jails guards, actually **weaponed**,
whatch particularly dangerous fools.

That's the reason for **nobody will**
scandalize if there is a **suspension**
of civil rights and of **costituzional**
guarantees.

It is a question that witnesses one of
the most evident our time's
hypocrisies.

It means that a total Institution, that
should **cure without punishing**, at
the end turns out to be much **more**
punishing than the *Institution*
of jail itself.

In fact in Giudiciary Psychiatric Hospitals/Security Units all the constitutional guarantees are suspended.

In jails, just to make an example, it is forbidden to contain (bind at their beds) the prisoners.

It means:

1) that it is **forbidden to deprive the inmates of that minimal freedom** to dispose of their bodies locating them into the for them most suitable position, even less to move it.

If any jail agent would implement such a measure in a normal prison, he would be tried and punished

2) In jail, once the sentence has been pronounced, people know **when they enter** but they also know **when they will get out**. In **OPG/S.U.s** the discharge is **first of all an *option***.

This because it is not measured on the gravity of the offense, but on the presumed *dangerousness* of the person.

The discharge is **reevaluated** after a **certain period**,

and in fact the detention is declared finished only if there is a **territorial Service in the Country** that declares itself **ready to take charge of the inmate**.

In case this doesn't happen,
dangerousness doesn't cease

and the **Security Measure** gets
prolonged, sometimes even ad
libitum life long.

In Italy, after that in the year 1978 the Parliament had decided to **close the “civil” total psychiatric Institutions**

there are **being closed** in the year **2013** the **Forensic Institutions (OPGs)** as well.

The Italian Constitutional Court, in **1983**, in **2003** and in **2004**, has already pronounced, *notably limiting the legitimacy of such six structures*

In **2008** the **Prodi** government promulgated a law that foresaw the OPGs/S.U.s passed **from the competence of the Ministry of Justice (like the jails) to that of Health,**

In 2011 the Parliamentary Commission for the Quality check of the National Health Service revealed the horrors that took over in the OPGs (S.U.s) in Italy.

In January 2012 the Minister for Justice Mrs. Paola Severino promulgated a law, that was later converted into a parliamentary law by the Parliament itself

This law foresaw that:

- 1) The OPGs/S.U.s **had to be closed by 31st.03 2013**
- 2) There had to be funded and implemented regional alternative structures including **a maximum of 20 bedplaces each one.**

- 3) These residential alternative facilities had to be run by the **Health Service of the different Regions**
- 4) There had to be ensured an **external control by Police.**

About this law a strong debate. was opened.

There was who was sustaining that such alternative structures were necessary, and who was stating the opposite, starting from just partially different positions.

MINISTERO DELLA SALUTE

DIPARTIMENTO DELLA PROGRAMMAZIONE SANITARIA E DELL'ORDINAMENTO DEL SSN
DIREZIONE GENERALE DELLA PROGRAMMAZIONE SANITARIA

FSN 2013- Somme di parte corrente per il superamento degli OPG (art.3-ter del decreto-legge 211/11 convertito nella legge 9/2012)

	Popolazione residente all'1.1.2011		n° INTERNATI		
	euro	19.000.000	euro	19.000.000	
	Popolazione residente all'1.1.2011	50% QUOTA COMPLESSIVA	n°internati OPG	50% QUOTA COMPLESSIVA	TOTALE
	(1)	(1a)	(2)	(2a)	(3) = (1a + 2a)
Piemonte	4.457.335	2.021.836	97	1.760.369	3.782.20
*Valle d'Aosta	128.230	58.165	3	55.593	113.75
Lombardia	9.917.714	4.498.650	308	5.614.909	10.113.55
*P.A. Bolzano	1.037.114	470.432	16	296.497	766.92
*P.A. Trento					
Veneto	4.937.854	2.239.798	78	1.426.891	3.666.68
*Friuli Venezia Giulia	1.235.808	560.559	13	240.904	801.46
Liguria	1.616.788	733.371	58	1.056.270	1.789.64
Emilia Romagna	4.432.418	2.010.534	63	1.148.925	3.159.45
Toscana	3.749.813	1.700.906	63	1.148.925	2.849.83
Umbria	906.486	411.180	12	222.373	633.55
Marche	1.565.335	710.032	17	315.028	1.025.06
Lazio	5.728.688	2.598.518	150	2.724.065	5.322.58
Abruzzo	1.342.366	608.894	31	555.932	1.164.82
Molise	319.780	145.051	7	129.717	274.76
Campania	5.834.056	2.646.313	174	3.168.810	5.815.12
Puglia	4.091.259	1.855.785	95	1.723.388	3.579.17
Basilicata	587.517	266.496	7	129.717	396.21
Calabria	2.011.395	912.364	64	1.167.456	2.079.82
* Sicilia	5.051.075	2.291.155	200	3.650.617	5.941.77
* Sardegna	1.675.411	759.962	53	963.615	1.723.57
TOTALE	60.626.442	27.500.000	1.510	27.500.000	55.000.00

* RSS e PPAA. Per le Province autonome di Trento e Bolzano le quote relative vengono rese indisponibili ai sensi dell'art. 2, comma 109, della legge 23 dicembre 2009, n. 191.

Fonte dati:

Popolazione residente: ISTAT

N° internati: Coordinamento delle regioni per la sanità penitenziaria (rilevazione delle Regioni sede di OPG) - rilevazione al 31.12.2011

quota complessiva

euro
55.000.000

In the year between march 2012 and march 2013 **nothing has happened**, the money has not been given out by the Regions and the **territorial alternative facilities have never been implemented.**

The 31st of march 2013 the
italian Governement issued an
extension decree by one year to
the actual and definite closure of
the OPGs/S.U.s.

The **backstaging question** to the **closure – failing closure** of these still remaining Total Institutions is that of the **lacking taking charge** or not of those people by the **Mental Health Territorial Services.**

”Normal” psychiatric Residentiality

In Italy there are **1.552 residential facilities**, with a total of **17.101 residential beds**. Residential facilities are out of hospital, community-based facilities. Dividing $17101 / 1552 = 11.01$. On average, residential structures have **11.01 beds each**.

As it can easily be seen, the question would just be to decide, and to let implement the decision, that **the actually still detained 1.500 persons in the six italian OPGs/S.U.s be, gradually (one year!) but radically, absorbed in the 17.000 today existing beds in the “normal” psychiatric residential facilities.**

In this case the question would simply be to understand – and to decide – **how much the OPG/S.U. patients**, or patients with any kind of forensic problems, **represent, in any Mental health Departement, the priority**, as being the heaviest ones.

The territorial Mental Health Services, on the other hand, **often entrench themselves behind the presumption of dangerousness** in order not to engage with the **wakeest and most unhappy citizens** of theirs', in the **catchment area of which they are responsible for.**

In such a way they recreate and fall into the **dynamics** again of recreating the “**escape goat**” by the collettiveness, that the Services themselves eventually express.

From this situation derives on the other hand the self feeding consequency and confirmation, that **as long as there are any fool-criminals**, representing the **“hard core” of Unreason**,

this means on the
opposite way that there
are good people who
are reasonable and
sensefull.

The legitimacy of Reason gets reaffirmed and reassured by the same existance of the “criminal foolness”.

In such a way do the OPGs/S.U.s exist, and this is the real meaning of their usefulness.

Capabilty of understanding and willing

- The question of the capapility of understanding and willing is the **basic question of Psychiatry**.
- At the very end however, upon this same question **all the Right is founded**.
- Because it is self evident and clear that **without free will there is no responsibility,**

Without Free Will it has
no sense to talk neither
about guilt, nor about
condemnation, nor even
less about punishment

From the Bible onwards the identity of mankind derives from the acquisition of the free will.

To decide that someone is not detaining such a basic quality, means to **degrade him to a role of a subhuman.**

Penal code

The Italian penal code defines and states at the Articles n. 88 – 89 the total and partial incapability of understanding and willing.

All penal codes of the world include such or similar articles to these ones. Austria doesn't include the partial imputability

Dangerousness

- The dangerousness question turns often out to become the founding question of all the psychiatric and of Mental Health practices
- In origin the concept of dangerousness was a juridical item
- **A juridical concept that was exclusively relating to the sequence and to the repetition of offenses.**

The organic question

- In the XIX century the italian Cesare Lombroso believed that mental illness was originated by a **functional turning upsidedown of the paleopallium over the newpallium.**
- But paleopallium, the olphactive brain, is the **reptilians' brain or cortex.**

From this misunderstanding that all the **racial question** is deriving.

It is a hard to die question, that still heavily influences the psychiatric question in general and the forensic-psychiatric question in particular even today.

The question of the **responsability of psychiatrist.**

If the owner of a crocodile lets it go free, he actually and evidently responds of the damages that the crocodile generates to humans.



There is in other words a **LINK of CAUSALITY** between the acts performed by the crocodile and the its owner's responsibility

On this link was based the **blackmailing of the Mental Hospital.**

A Marseille, la psychiatre d'un patient meurtrier condamnée à un an de prison avec sursis



Negligent responsibility in wilful crime

At this point it is clear that from the survival of the concept of the TOTAL incapability of understanding and willing there can or cannot stem the basic roots of a **presumption of any negligent responsibility in a wilful crime.**

As if the psychiatric patient, so called
mentally ill patient, **disposes of an,
even if partial, capability of
understanding and willing,**

**it turns out to be impossible to
furtherely mantain the existance of a
link of causality** between the
responsability of the Psychiatrical
Doctor and that of the single patient,

Relating aspects:

1) Restraint and isolation

2) The question of consent

3) Gravity of psychiatry

4) The Italian Constitution, on its article n.13, states that: “**The personal freedom is untouchable. There is no form of detention, inspection or personal inspection admitted, if not by a motivated act by the court Authority and in the only by law foreseen cases.**”

5) The position undertaken by the **Chamber of Physicians of Trieste**. The latter has officially stated, at first and until now as only in Italy, that **restraint is not a medical action**, and thus it **cannot be prescribed by a physician**.

6) In **Cagliari** took place a **trial** relating to the case of a patient who had died after being restrained in his bed in the SPDC/Acute Psychiatric Ward. The trial was towards the consultant psychiatrist of the SPDC/Acute Psychiatric Ward, who had been accused of negligent murder in order to that sequence of facts. The case had been followed by all of Italy, but **the Court of Cagliari in 2011 discharged the chief Psychiatrist** due to the lack, in the Court's opinion, of any "link of causality" between restraint and death of the patient.

7) In **Salerno** took place another trial for similar reasons which ended with the **condemnation of six psychiatrists.**

As you can see the forensic question is still very open, and shall occupy a large space of a debate in the future in Italy.

**In my opinion the phorensic
question shall eventually
enlarge all over Europe and
the entire World. To this is
relating the question of the
penal responsibility of the
Psychiatrist.**