

# Karl Schlyter – a Swedish Lawyer and Politician<sup>1</sup>

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Karl Johan Schlyter (1879-1959)<sup>2</sup> is generally regarded in Sweden as one of the most important Swedish lawyers of his time. He also played an important political role. Schlyter devoted his life as a lawyer and as a politician to two great legal reforms, to a revision of the procedural part of the Code of 1734 and to a new penal law in replacement of the Penal Law of 1864. In 1911 KJS became secretary in the Commission for the reform of procedural law, Processkommissionen (PK). He worked for this commission on and off during the next 15 years. The new Procedural Code (Nya rättegångsbalken) was not enacted by the Swedish parliament until 1942 and became effective on January 1 1948. Between 1938 and 1956 Schlyter was chairman of the Penal Law Commission, Strafflagberedningen (SLB). This Commission worked with a number of partial reforms before submitting a final report called “Skyddslag” (the Protective Code) in 1956. This Commission report became an important preparatory work for the new Criminal Code (Brottsbalken), that was passed by parliament in 1962 and became effective in 1965.

Some comments on Karl Schlyter’s family background should be made. His grandfather was the famous Swedish legal scholar, Carl Johan Schlyter (1795-1888), who was professor of legal history at the University of Lund. The elder Schlyter, who was an important representative for the Swedish branch of the Historical School of law, devoted 50 years of his life (1827-1877) to editing and publishing scholarly editions of all the Swedish medieval laws. Through this work he became the best known Swedish legal scholar of his time, with a fine reputation all over Europe. Famous German legal historians such as Konrad von

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<sup>1</sup> This paper is based on my biography on Karl Schlyter, which was published in 1998. Important unprinted sources have been found in two collections at the Swedish National Archive (Riksarkivet = RA), i. e. Karl Schlyter’s archive and Strafflagberedningen’s archive. In many cases Mr Schlyter has retained letters that he has received and also made copies of his own letters, which means that mostly it is possible to read the letters of both the concerned parties.

<sup>2</sup> Schlyter often himself used the abbreviation KJS in letters and working papers. I will therefore also use KJS as a synonym in this paper.

Maurer and Karl von Amira, successively professors at the university of Munich, paid a tribute to Carl Johan Schlyter due to his introduction of important source material for common germanistic studies.

Karl Schlyter's father Gustaf Ragnar Schlyter (1845-1927) was a scholar with a Ph.D. degree in Latin at the University of Lund, who later served as a teacher (lektor) at the local secondary grammar school in the naval town of Karlskrona. Karl Johan Schlyter became a lawyer and took his law degree (Jur kand) at the University of Lund in 1901. He also made a half-hearted attempt to become a legal historian but soon gave it up for a career as a judge. After serving in various capacities in the law courts KJS finally became president of the Court of Appeals of Scania and Blekinge in the southern part of Sweden in 1929, a post he kept until his retirement in 1946.

Although Karl Johan Schlyter had a normal bourgeois background he became a radical during his university studies in Lund. In 1906 he joined the Social Democratic Party. This was a step that took some courage at this time, because the Swedish legal world was generally non-political but in principle clearly conservative in character. Much later (in the 1940s) he stated that to become a social democrat in his youth was regarded as roughly the same as it now was considered to be a communist in Sweden.<sup>3</sup> An important contributing reason for KJS to become a social democrat was that he revolted against his father's values. Gustaf Ragnar Schlyter was a patriarch, deeply religious and strongly conservative. According to him the family father had an absolute right to make decisions in the home for the family members, including his wife. The consequence was finally that Karl Schlyter's parents separated from one another in 1909 and lived apart for the rest of their lives. KJS became a free thinker, although not an atheist, a radical political activist and an early friend of female rights. Later in life he helped the first Swedish female lawyer to serve as a judge, first in a primary court and later on in his own Court of Appeals.<sup>4</sup>

Schlyter also became a member of parliament in the 1920s. He stayed on as an M. P. for more than twenty years. Between 1937 and 1947 he was chairman of the First Legal Committee of the parliament. As early as 1917 he nearly became a cabinet minister (without portfolio), in which capacity he later served in 1921-23 and 1925-26 in various short-lived social democratic governments.

Between 1932 and 1936 Schlyter was minister of justice in a social democratic government with Per Albin Hansson as prime minister. In retrospect the coming to power of this government meant a political watershed in the modern history of Sweden. In 1933 a political pact was made in parliament between the Social Democrats and the Peasant Party. During the 1930s the first reforms were made on the emerging Swedish welfare state and Schlyter contributed to this work within his field. During his period in office he initiated a number of legal and social reforms. Some of these laws were not enacted until later, during the term of his successor as Minister of Justice, K.G. Westman, professor of legal history at the University of Uppsala and a member of the Peasant Party. In 1936 the Social Democrats and the Peasants formed a coalition

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<sup>3</sup> KJS: *Personliga minnen från hovrättens dagar i Kristianstad* in Kristianstads Läns Tidnings julnummer 1944.

<sup>4</sup> Valfrid Spångberg: *Banbrytare, hövdingar, tyranner*, Stockholm 1939 p. 253.

government that lasted through the beginning of the Second World War. I will briefly comment on a few of the more interesting reforms Schlyter worked on during the 1930s and 1940s. Several of these were radical measures for their time.

Up to 1932 blackmail had not formally been a crime according to the Penal Law of 1864. At this time the perpetrators of this crime mostly turned their attention towards homosexuals, because homosexuality, even between consenting adults, was still a crime according to Swedish law. In 1934 the Penal Law was changed and blackmail was criminalized. However, this did not in itself much improve the situation for the homosexuals. It took another ten years before a wide-ranging reform bill was enacted, that in principle meant a decriminalization of homosexual acts between consulting adults. Schlyter played an important part also with the work on this reform.

In 1935 Schlyter presented a bill on a new type of youth prison. The model was taken from Denmark, where a similar institution, Söbysögård, had been started in 1933 for (psychic) “healthy boys”. Schlyter visited the Danish institution during its first year and was much impressed with what he saw. The new Swedish law meant that delinquents between the ages of 18 and 21 years could be sentenced to youth prison. The penalty was not exactly fixed in time. The period of incarceration might vary from one to four years. This meant that some of those sentenced to youth prison might be more than 21 at the time of their release. Normally a person should be released after two years at the latest. One important purpose of this law was to give young offenders a proper vocational training and to accustom them to normal work. If necessary, their general education should also be improved during the time spent at the youth prison. The maximum of four years meant that after that time limit had passed, any inmate should be released irrespective of his behavior. However, he could be set free earlier through the decision of the newly established Youth Prison Board.

Maybe the most spectacular reform that Schlyter initiated was the reformation of the old system of converting fines into a prison sentence, provided that you could not (or in some cases would not) pay the former. On December 13, 1934 he held a public speech, that was later printed as a pamphlet under the title “Depopulate the prisons!” (Avfolka fängelserna!) KJS felt that to keep the old system was iniquitous. It was a crass example of class justice. In many cases it made the question of being incarcerated in prison a matter of whether you were capable of paying your fines or not. According to Schlyter this system was also directly harmful from the perspective of a progressive criminal policy; a number of people got, quite unnecessarily, used to spending time in prison; the latter thereby lost its character of deterrence. Through Schlyter’s efforts the Swedish parliament changed the law in 1937. The number of “fines prisoners” were reduced from nearly 11,000 in 1930 to 650 in 1940.<sup>5</sup>

During the 1930s and 1940s the ambition to create the new Swedish welfare state took on many forms. Among them were ambitions to improve the quality of life for the Swedish people but also to improve the quality of the Swedish people. Politicians, opinion makers, bureaucrats, doctors and social scientists felt

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<sup>5</sup> Hans von Hofer: *Brott och straff i Sverige. Historisk kriminalstatistik 1750-1984*, Stockholm 1990 7:4 note 1.

that they had the right and also the responsibility to intervene in other people's lives to an extent that amazes and frightens us today. This basic attitude is the background to conscious efforts to support child-births in certain groups and to restrict or prevent it in others. Basic were here certain racial ideas. The first racial research institute in the world had been established in Sweden in 1922. Although there existed a wide political consensus from left to right on these matters the most energetic measures and laws were initiated by politicians belonging to the Social Democratic Party. This way of doing things forms an integral part of the policy of "social engineering", as it has been called by modern Swedish scholars of history and political science.

Karl Schlyter contributed to this policy of social engineering. He was Minister of Justice when a sterilization law was passed by parliament in 1934 on the basis of a government proposal. In 1941 a new sterilization law was enacted, having been prepared by the Penal Law Commission, headed by KJS. The purpose of these laws was to prevent childbearing by people who were insane, mentally deficient but also by those, as he stated in parliament in 1941, who had "...a marked asocial way of living that as a rule could be said to be combined with psychic inferiority of one kind or another."<sup>6</sup>

Even after World War II KJS still believed in the importance of preventing crime through scientific knowledge in the field of heredity: In an application to a foundation for support for criminological research in Sweden he stated: "It has been established through racial biological investigations that bad hereditary genes might predestine criminality. The new [Sterilization] law makes it possible to counteract criminality by preventing childbearing by the bearers of bad hereditary character."<sup>7</sup>

In 1916 Schlyter and the Supreme Court judge Tore Almén founded the important Swedish law journal, *Svensk Juristtidning*. Almén died fairly young of the Spanish illness in 1919 but KJS stayed on as main editor of *Svensk Juristtidning* for 35 years, up to 1951. Through this position it became possible for him to promote his reforms. For example, he might ask one of his co-workers to write an article on a certain theme in order to influence the thinking of the Swedish lawyers. In 1944 he started a personal column in *Svensk Juristtidning* "From the point of view of the day" (*Från dagens horisont*). In this section he could comment freely on important legal and social issues. Schlyter also used his increasingly large circle of international contacts for the law journal, which fairly frequently published articles written by non-Swedish authors.

During his period as secretary of the PK-Commission Schlyter travelled to Germany and the Austrian Empire and later in the 1920s also to Great Britain. However, it was in Vienna in 1914, shortly before the outbreak of World War I, that he established his then most important personal contacts with two Austrian lawyers, the member of the Supreme Court of Austria Carl Coulon, and the president of a Court of Appeals (*Oberlandesgericht*) Friedrich von Engel. With the latter he formed a lifelong personal friendship, which also extended to their families and this contact still exists today. When Engel died in December 1941

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<sup>6</sup> F K protokoll nr 24 1941 p. 25.

<sup>7</sup> KJS to the Board of the Foundation of Knut and Alice Wallenberg 10.5.1946, volume 45 Karl Schlyter's archive RA.

Schlyter wrote an obituary in *Svensk Juristtidning*, in which he mentioned that the members of the PK-Commission owed a lot to the Austrian lawyer, who had helped them to properly understand the basic principles of the Austrian civil procedural law.<sup>8</sup> Schlyter also wrote a personal letter of condolence to Engel's widow, where he particularly stressed that he had never had a better personal friend abroad than Friedrich von Engel.<sup>9</sup>

During the earlier part of his life Schlyter was something of a germanophile. During the later part of the nineteenth and the early part of the twentieth century most Swedish lawyers looked to Germany for scholarly and law reform ideas.<sup>10</sup> During a visit to Leipzig in 1923 KJS stated to the president of the German Supreme Court (Reichsgericht) Rudolf Seckendorff, that "Germany is our scholarly fatherland."<sup>11</sup>

Schlyter's regard for Germany also long applied to the legal technique of law making. Later in life he changed his opinion. The German way of making theoretically correct and systematic laws had had a bad influence on Sweden. The ideal of adopting the great Code with the German BGB as a model had long impeded smaller partial reforms, although these were badly needed. All the Swedish legal scholars had studied in Germany (up to 1933). The specialists on procedure wanted systematic laws on the courts, on civil procedure and on criminal procedure. Schlyter felt that it would have been much better to reform the Swedish law of procedure according to the English fashion. Already during his period as Minister of Justice KJS decided in favour of partial reforms with regard to the field of penal law. During the later work on preparing reforms on penal law in the 1940s and 1950s Schlyter found that partial laws after the Anglo-Saxon pattern were immensely superior to the German model.<sup>12</sup>

In 1938 Schlyter went to an international conference in Kairo, arranged by the Union for the Unification of penal law. KJS later became involved in further work of a similar nature, through his being elected vice president of this organisation.<sup>13</sup> There he became acquainted with the French scholar Marc Ancel during a camel ride to the tomb of Tut-Anchamon in the Valley of Kings in Egypt. During this journey he also met with the German professor of penal law in Freiburg i. Br. Adolf Schönke for the first time. According to Schlyter Schönke was at this time still rather tainted by Nazi conceptions.<sup>14</sup> However, Schönke and Schlyter kept in touch during the war and also after this and exchanged letters fairly regularly. Schönke, who was one of the most important penal lawyers in Germany at this time, died in 1953, being only 45 years old at his death. His library then became the nucleus, from which developed the

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<sup>8</sup> K.J.S: *Friedrich von Engel* in SvJT 1942 p. 187.

<sup>9</sup> Karl Schlyter to Dorothea von Engel 27.12.1941, volume 41 Karl Schlyters archive RA.

<sup>10</sup> Jan-Olof Sundell: *German influence on Swedish private law doctrine 1870-1914*, Scandinavian Studies in Law 1991 p. 237 ff.

<sup>11</sup> Schlyter: Till SLB:s "ungdomsrotel" (nr 3) 1.8.1951 p. 6, transport carton 4:6 SLB:s archive RA.

<sup>12</sup> KJS to Gustav Jonsson 6.7.1948, transport carton 1:6 and KJS to Ivar Strahl 15.7.1946, transport carton 12:10 SLB:s archive RA.

<sup>13</sup> V.P.M. 24.4.1947, volume 45 Karl Schlyters archive RA.

<sup>14</sup> Karl Schlyter to Bengt Hult 27.6.1954, transport carton 6:3 SLB:s archive RA.

famous research institute, the Max-Planck-Institut für Strafrecht in Freiburg i. Br.

Karl Schlyter became strongly impressed with the penal reforms prepared in Great Britain at the end of the 1930s. In November 1938 the conservative Home Secretary Sir Samuel Hoare (later Lord Templewood) introduced the Criminal Justice Bill. This made a lasting impression on Schlyter and several years later he stated in a letter to the Swedish ambassador in Spain Karl Ivan Westman, that his intention was to try to plagiarize the English Bill in Sweden to the best of his ability.<sup>15</sup> At this time Hoare was British Ambassador to Spain and a diplomatic colleague of Westman. Schlyter also asked Westman to hand over a copy of the newly published Yearbook of the Nordic Criminological Associations to Hoare.<sup>16</sup> As a result Hoare wrote a personal letter of thanks to Schlyter, in which he shortly clarified some of the basic ideas of the English Bill, that had not been adopted as a law due to the war. Hoare stressed that you had to treat lawbreakers differently. It was necessary to differentiate between young criminals, female offenders and habitual criminals: “If the war had not stopped the application of my reforms, their effect would have been to keep out of the ordinary prisons all delinquents under the age of twenty-one.” (Schlyter had exactly the same idea.) Hoare had had specific plans for building a separate open criminal institution for women, situated in the country. Finally he wished Schlyter and his Scandinavian colleagues success in their important humane reform work.<sup>17</sup>

Several Swedish lawyers became interested in questions of penal reform during the decades around the turn of the century 1900. Some of them joined the organization for international collaboration on criminal law matters established by the famous German scholar Franz von Liszt in 1889, Union internationale de droit pénal (IKV). Local criminalistic organizations were established by national members of the IKV in Norway (1892), in Denmark (1899) and in Sweden (1911). Schlyter joined the Swedish Union of Criminalists from the start and became its chairman in 1938, a post he kept up to 1950. He also became involved in another organization for cooperation within this field, the Commission Internationale Pénale et Pénitentiaire, that had been formed as early as 1878. The organization had its seat in Geneva and after World War II it was taken over by the United Nations.

Schlyter successively established more and more international contacts with important persons abroad, interested in matters of criminal law, both with regard to theoretical but also to practical matters. It was typical for Schlyter that he utilized these contacts in his work with his committee, the SLB. An example will here be given to show the way he proceeded. In the beginning of 1951 Schlyter played with the idea of dividing the court procedure regarding dangerous criminals in two phases. He referred this proposal to an informal group of his international contacts outside the Nordic countries, to men like Marc Ancel (Paris), Paul Cornil (Brussels), Sir Lionel Fox (London), Charles Germain (Paris), Jean Graven (Geneva) and Max Grünhut (Oxford). He also wrote on this and other issues to the Finnish lawyer Marga Ahlqvist. She, unlike

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<sup>15</sup> KJS to Karl Ivan Westman 11.10.1942, transport carton 19:3 SLB:s archive RA.

<sup>16</sup> Karl Ivan Westman to KJS 19.11.1942, transport carton 19:3 SLB:s archive RA.

<sup>17</sup> Sir Samuel Hoare to KJS 25.11.1942, transport carton 19:3 SLB:s archive RA.

his other Finnish contacts, shared his progressive ideas, particularly in regard to dealing with young offenders. Later he quoted from or referred to the answers from his international contacts in an internal Commission working paper on this matter.

Two international theoreticians on penal law had an important influence on Schlyter's thinking. The two were the German Franz von Liszt and the Italian Enrico Ferri. They were the main proponents for two separate schools, the Modern or Sociological school (Liszt) and the Positive or Italian school (Ferri). Basic for Schlyter was that he wanted to get away from the old way of doing things represented by what he usually called "the penal law of retaliation". He wanted to reduce the importance of general prevention in favour of individual prevention, although he did not see any basic contradiction between the two preventive theories. He wanted to emphasise practical reforms instead of various penal theories, that in any case ran the risk of soon becoming outdated.

Schlyter read Liszt's famous textbook *Lehrbuch des deutschen Strafrechts* during his early university studies in penal law at the turn of the century. Later on he heard Liszt in person at an international conference of the IKV in Copenhagen in 1913. In a retrospective article in 1951 KJS found that Liszt's influence on Sweden had been channelled through academic teaching on penal law. The professors of penal law in Lund, Johan Thyrén, and in Stockholm, Nils Stjernberg were among those who had been impressed with Liszt's thinking. KJS found that the German theorist had had an incomparable international significance for the development of criminal law and criminal policy. This also applied to a great extent to the Scandinavian countries. According to Schlyter, Liszt's ideas had become common property in Sweden. The results of the Swedish reforms on penal law during the twentieth century testified to that fact.<sup>18</sup> However, one of Schlyter's close collaborators, the German born civil servant Dr. Gerhard Simson pointed out a few years earlier that Swedish criminal policy had developed independently along lines that were uninfluenced from outside.<sup>19</sup>

Still, Ferri's preliminary proposal for a new Penal Code for Italy in 1921 also strongly influenced Schlyter's thinking.<sup>20</sup> Ferri was opposed to the German Classical School on penal law. He did not accept the concept of guilt as meaningful. Law offenders were predetermined to commit crime. There did not exist individual responsibility in the classical sense but only a "social responsibility". The crux of the matter was the concept of the dangerousness of an offender. A prognosis should be made of how dangerous such a person would be in the future. There should not be any "penalties" but only "sanctions" applied to the offender. It could not be a question of atonement on the part of the

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<sup>18</sup> Karl Schlyter: *Franz von Liszt et la politique criminelle suédoise* in *Revue Internationale de Droit Pénal* 1951 p. 343 ff. The same article was published in Swedish in *Svensk Juristtidning* 1951 p. 169 ff.

<sup>19</sup> Gerhard Simson: *Franz von Liszt und die schwedische Kriminalpolitik* in *Festschrift till Karl Schlyter*, Stockholm 1949 p. 319 f. As a Jew Simson had fled to Sweden in 1939, where he got a position at the Ministry of Justice as a civil servant. On Simson in general in Horst Göppinger: *Juristen jüdischer Abstammung im Dritten Reich. Entrechtung und Verfolgung*, second edition Munich 1990 p. 317 f.

<sup>20</sup> Karl Schlyter to Ivar Strahl 21.1.1955, volume 67 Karl Schlytes arkiv RA.

law breaker. A rational system of sanctions should be applied, among these there could be penalties such as imprisonment and fines. But they were only examples from the battery of measures that society should use in order to have a rational system of sanctions. Schlyter also shared Ferri's sceptical view of the concept of imputability.

Although he originally warmly accepted the concept of sanctions instead of penalties, he later came to regard both as principally wrong, because they both looked backwards to the committed crime, instead of ahead, to what could be done in a positive way with regard to the offender. Therefore KJS came to prefer the concept "measure" or "protective measure" instead of "sanctions". Such protective measures had the aim of reintegrating the offender as a well functioning member of the normal society. He also later became sceptical to Ferri's thinking regarding the concept "social responsibility." That kind of philosophical speculation was not Schlyter's cup of tea. In a private letter he criticized this idea in the following manner, "Someone has said that in that case a brick of stone would be responsible if it falls down from a roof and kills me."<sup>21</sup>

In 1944 the SLB-Commission presented a proposal for a law on the execution of penalty. The government introduced this as a bill and it was adopted by parliament in the autumn of 1945. The new law meant that the Swedish cell-prison system, that had been introduced after a modified Pennsylvania model in 1841, was now formally abolished. Among the general regulations on the treatment of the inmates the Commission had proposed the following basic principle: "An inmate should be treated with respect for his human value. He should receive such treatment that his correction is furthered." During the preparatory work the wording was changed but the basic meaning remained intact. The final rule in the law (Chapter 4, section 25) became as follows, "An inmate should be treated with firmness and in a serious manner and with respect for his human value. He should be occupied with suitable work and for the rest receive such treatment that his adjustment to society is furthered. Injurious effects of the loss of liberty should be prevented as far as possible."

The above mentioned rule has later been changed but the central concept that an inmate should be treated with respect for his human value has been transferred intact to the still valid law on criminal treatment in institutions (1974:203). The rule should also be understood within its contemporary background. This was at the end of the Second World War and the opening of the German concentration camps. It was therefore generally felt important in Sweden to underline the importance of human value even of inmates in correctional institutions. Schlyter felt at the time that the rule 4:25 in the law should be understood as "...a complete program for the protection of society in two words." The prison penalties should no longer "...have the character of an affixed suffering for suffering's sake."<sup>22</sup> It has been stated by one of Schlyter's still living collaborators Mr Gunnar Marnell that this Swedish law made a strong impression on prison reformers in other countries at that time.<sup>23</sup>

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<sup>21</sup> KJS to Thorsten Sellin 13.7.1950, transport carton 1:6 SLB:s archive RA.

<sup>22</sup> Protocol of the Society on criminal policy (Kriminalpolitiska sällskapet) 11.1.1946.

<sup>23</sup> Interview with Gunnar Marnell 14.4.92.



One of Karl Schlyter's close personal friends was the Swedish-American scholar professor Thorsten Sellin, who had emigrated from Sweden in 1919. He became a widely regarded specialist on penal law and sociology and served as professor in Philadelphia. He got acquainted with Schlyter in the summer of 1938, as the latter visited the United States as an official member of the Swedish delegation to the commemoration in Delaware, where Sweden had established a short-lived colony in 1638. Sellin and Schlyter soon became friends. The American professor helped KJS to visit different correctional institutions, among them the frightening prison Sing Sing. However, he also studied the application of the rules on probation and parole in the State of New York. Schlyter found that in these fields the United States was fifty years ahead of Sweden at that time.<sup>24</sup>

At the beginning of 1939 Schlyter tried to establish a professorial chair of criminology in Sweden. He clearly saw the value of scholarly work on crime and he wanted Sellin to move back to Sweden in order to be the first professor of criminology there. He wrote to the American scholar to obtain information on how such a chair should be formed, what fields of study should be included and what lessons could be drawn from the conditions in the United States.<sup>25</sup> Sellin was interested in the project and wrote back to Schlyter, "If you get that Swedish professorship established I would certainly enjoy holding it very temporarily, as a visiting professor, at least."<sup>26</sup> The Second World War impeded Schlyter's plan for establishing a professorship. But in 1946/47 he succeeded in getting Sellin over as a visiting professor to "Stockholms Högskola" (the predecessor to the University of Stockholm). At the same time Sellin assisted the SLB as an expert. He obviously never seriously considered moving back to Sweden. Later Schlyter found that he had not profited from Sellin's capacity during the latter's stay in Stockholm, although this had become a climax in their contacts. Still he felt that he had been sleepwalking that year and that he had not been capable of utilizing the scholar's period in Stockholm as he should have done.<sup>27</sup>

After the Commission's final report was presented, Sellin on Schlyter's instigation took on the task of translating the proposed law text into English. The pamphlet, entitled "The Protective Code" was distributed over the whole world and it became well known among people dealing with penal matters. As a matter of fact it fixed an incorrect picture of the Protective Code as being an adopted part of Swedish law instead of being regarded for what it was, a commission report. The enacted law that was put in effect in 1965 never became as well known as the earlier proposal. "The Protective Code" was widely, and incorrectly, regarded as the enacted penal law of Sweden.<sup>28</sup>

Karl Schlyter wanted the penal system to be rational. His earlier racially influenced thinking changed during his later years. But he also had a deeply humanistic perspective. His heart lay with the underprivileged, with the losers of society. KJS felt that the treatment of criminal offenders should be seen in a broader perspective as an integral part of the social policy of the whole society.

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<sup>24</sup> Skånetidningen Lunds Dagblad 11.8.1938.

<sup>25</sup> KJS to Thorsten Sellin 22.1.1939, volume 34. Minister of Justice. Main Archive. Series Ö. Handlingar efter i departementet verksamma K. Schlyter's papper RA.

<sup>26</sup> Thorsten Sellin to KJS 9.2. 1939, see the former footnote for the place of source.

<sup>27</sup> KJS to Thorsten Sellin 14.10.1956, volume 71 Karl Schlyter's archive RA.

<sup>28</sup> I am indebted to Professor emeritus Knut Sveri, Stockholm for this information.

Instead of punishing the offender you should try to treat him, with the aim of reintegrating him in society. He lived in a period of reform optimism in Sweden, during the establishment of the welfare state. Many people, including Schlyter, believed that with the rise in living standards crime would decrease. This optimistic prediction has turned out to be false. In the 1960s criminological research showed that it did not much matter whether you were soft or hard on criminals in prison; the results were just as depressingly bad in both cases. Therefore it is possible to say that Schlyter was lucky to die before disillusion could set in. Still, his example that you should improve conditions even for condemned criminals and treat them in a humane manner has had an enduring effect on Swedish criminal policy.