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Summary of the Discussions of the Vth International Symposium in Comparative Criminology, Santa Margherita di Ligure (Italy) May 16–May 18 1973

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CRIME AND CRIMINAL JUSTICE IN THE DEVELOPING COUNTRIES

Summary of the Discussions of the Vth International Symposium in Comparative Criminology Santa Margherita di Ligure (Italy) May 16 – May 18 1973

Samir Rizkalla

CONTENTS

INTRODUCTION

The general problem for discussion at the Vth International Symposium in Comparative Criminology consisted of determining the scientific conditions necessary for a study of the actual crime situation and the social reaction it gives rise to in developing countries. It was necessary to establish the facts as they are today, to analyze the trends, to evaluate the needs and consequent priorities, and to choose the kind of action to be undertaken, all with the greatest respect for the basic rights of the human being.

Rapidly developing countries are presently facing common problems, such as population explosion and accelerated urbanization, but in the area of the administration of justice, each is confronted by its own characteristic problems.

The question of legislation in Latin America is a good example. Here the private law, based on the tradition of Roman law and essentially codified, gives great importance to legal definitions, abstract ideas, technique and juridic dogmatism. The fact that right up to the XXth century this system has been dominated by theoretical concepts mainly developed by the Italo-German School, explains, as Marc Ancel states in his *Défense sociale nouvelle*, why the Spanish-American countries, insofar as criminal policy is concerned, have remained under the influence of a foreign juridic dogmatism from which they have difficulty freeing themselves.

Aside from the question of law, there is no doubt that the situation of marginal classes *vis-à-vis* the system of the administra-

tion of justice and certain political factors particular to these countries, are two points of primary importance in the analysis of the criminological situation in Latin America.

Where Africa south of the Sahara is concerned, the present dualism between an ancestral social structure and a new way of life, not yet entirely assimilated, has an effect on all community institutions, whether family, religious, political or economic. This dualism, expressed in culture conflict, is proving particularly acute in the field of justice, where the persistence of a traditional common law goes hand in hand with the imposition of modern law, based on European legislation. Due to the gap that exists between contemporary justice and the mentality of an agricultural majority, still faithful to the ancestral institutions, a large portion of the criminal phenomenon is absorbed by the customary law, and is therefore unknown to the official authorities.

North Africa and Western Asia, for their part, are characterized by a system of law where the religious or philosophical influence is very strong. In his treatise *les Grands Systèmes de droit contemporains*, René David points out that the Muslim law, like the canon law for the Christian and the Hebraic law for the Jew, is the law of a community which professes the Islamic faith. Because of its links with a religion of revelation, its entirely original concepts and the concept of authority inherent in it, Muslim law is completely different from other schools of law. Whether or not it can be considered as legislation, it fills the role left vacant in regulating certain types of very important human relationships. In countries where the civilization was influenced by the teachings of Islam, the principles of Muslim law are such that they have a considerable influence on the manner in which the rules, imported or copied from the West, are actually interpreted and applied.

Generally speaking, it must be said that the principles and juridical organizations of Western origin have strongly coloured the culture and society of developing countries. On the other hand, industrialization and urbanization are now revolutionizing these societies. The increase in crime, not as alarming, however, as in the large cities of the North Atlantic, will oblige researchers and the administrators of these countries to devise a justice that will satisfy the aspirations of their people towards equality and the safety of their person and their property.

This brief summary affords a rapid outline of the discussions which took place in the three workshops of the symposium : group n° 1 : Latin America ; group n° 2 : Africa south of the Sahara ; group n° 3 : North Africa and Western Asia.

In the following pages, we will attempt to pinpoint a number of interesting details discussed by the third work group.

CRIME AND CRIMINAL JUSTICE IN THE MIDDLE EAST [1]

Three main subjects were developed during our discussions. They were :

A. Crime : 1. Its differential aspect in terms of urban and rural areas and the diverse socio-economic *milieux* ; 2. The methods of recording criminal acts, and problems related to the actual criminality and the indicators through which it can be studied ; 3. Regional factors of tolerance and participation in certain forms of crime by the public and the effect of these on the statistics.

B. The law : 1. The sources and historical and juridical origins of the present criminal legislation and their true influence ; 2. Should the law be normative and influence social development or, on the contrary, should it follow social trends ? And what effect would either choice have on the effectiveness of the law ?

C. Institutions examined in chronological order of their role in the process of institutional reactions to crime : 1. The police : its organization and its functions ; 2. The courts : the training and specialization of judges ; equipment available, with a view to individualization of punishment ; 3. The execution of punishment and probation.

A. CRIME

Its general characteristic traits are considered here together with the method of recording it and the problems of social tolerance which can affect its external aspect.

1. The data given in this text are taken from verbal communications and writings of the participants of workshop n° 3 of the Vth Symposium in Comparative Criminology, organized by the I.C.C.C. The Chairman of the workshop was Mr. Mustapha El Augi, advisor at the Supreme Court and professor at the Faculty of Law and Social Sciences in Beirut, whose vast knowledge of the region, together with his personal tact, enabled the work group to accomplish relevant and efficient work.

1. THE ASPECTS OF CRIME

The rate of crime in the region studied does not seem to be markedly increasing on a temporal basis, even though the general orientation of the types of delinquency is no different from those in western industrial countries. Nevertheless, there is a certain persistence with regard to blood crimes, conditioned by the specific values of the area. Furthermore, the question of culture conflicts exercizes an influence which gives each country a special character, particularly with regard to internal and external migrations.

In Egypt, for example, willful homicide (murder in the first degree) constitutes a considerable percentage of the number of major crimes found in the statistics. Actually, from 1965 to 1971, the figure varied between an annual minimum of 1 164 and a maximum of 1 545, whereas the sum total of major crimes (including mortal blows or serious bodily harm, rape, theft, swindling, corruption, fraud, counterfeiting, attempts against the person or property, damage to farm lands, arson, etc.) totalled from 3 539 to 4 725. This means that willful homicide represents almost a third of this total.

Crimes against the person, however, often seem to be a phenomenon that occurs mainly in rural areas : in Turkey, the statistics show that out of 3 270 homicides reported, 2 432 were committed in rural areas and 838 in urban areas. In Egypt, the records show only 12,1% of violent crimes in the urban regions, whereas 49,4% are committed in Upper Egypt and 33,4% in Lower Egypt.

Crime against the person is explained, moreover — and this is one of the most striking factors of similarity between the countries of the region — by the local customs. The social values attached to honour, extra-marital sexual relations and to the land, encourage the perpetration of blood crimes which, as some participants noted, end in a vicious circle of vendettas where a member of the victim's family takes it upon himself to avenge the latter by killing a member of the opposing family, and so on.

This typically cultural aspect of crime often places the judge in a dilemma that is not always easy to resolve, for he has to choose between « satisfying the legal demand » or « the cultural demand ».

With regard to crimes against property, these present a particular aspect in each country. Whereas Lebanon places them first in order of numerical importance, Egypt states that it is more an urban phenomenon, while Israel suggests that compared with crimes of violence, crimes against property is diminishing. In addition, the urbanization of certain regions has the effect of changing the types of crime committed. An example of this was the building of the Aswan Dam which changed the socio-economic structure of a part of the territory, and in so doing, altered the patterns of delinquency.

Another type of infraction, where there are considerable differences is drug consumption. Although in the Middle East, as elsewhere, this is one form of deviance for which the known figures represent but an infinitesimal fraction of the actual incidence of the crime, in Lebanon the drug habit is not considered a real problem. On the other hand, in Egypt, it amounts to a « case of social pathology... linked with certain community values which encourage it » (Yassin and Megahed, 1973).

Corruption, too, seems to be deeply rooted in Egypt to a disturbing degree, and this problem is now being studied in depth. The progress of this research will be described further on in our report.

2. CRIMINAL STATISTICS

The problem of criminal statistics is not exclusive to the countries of this region. It is well known that recorded crime constitutes only a fraction of actual crime, a greater or lesser proportion depending on the particular crime and the improvement in methods of collecting data. The difficulties encountered in the interpretation of this information are also quite common.

Nevertheless, the participants gave an account of how statistics are gathered and collated, and it seems that efforts have been made to improve criminal statistics.

Turkey, for example, has an institute for statistics. But over and above the data that it collects, there are also statistics gathered by the courts, the police and the public prosecutor. The data derived from these four sources, however, often lack cohesion, and the institute has undertaken measures to unify its data collection systems.

In Egypt, the statistics available are those of the Departments of Justice and Public Safety. They are gathered and collated in such a way as to reflect known criminality.

In Israel, there is a Central Bureau of Statistics which collects information from the police, the courts and the prisons. Studies have been undertaken in collaboration with the three institutes of criminology in the area with a view to improving methods for the collection and interpretation of statistics.

In conclusion, even though criminal statistics are useful in making certain differential studies on crime, they must nonetheless be used with caution because of their imperfections and the problems of reliability involved.

Modern methods of research are designed to proceed through sampling which makes it possible to record what might be called « revealed criminality », by means of surveys. This can often lead to more realistic conclusions on the differential aspects of delinquency, especially when the influence of socio-economic factors is studied. In fact, although social « tolerance » prevents certain crimes from appearing in the official statistics, with this kind of survey, the influence of this factor is considerably reduced.

3. TOLERANCE AND PUBLIC PARTICIPATION IN CERTAIN CRIMES

If statistics show considerably lower figure than actual crime, it is not only because technical problems affect the collection and interpretation of data. It is also, and even above all, because there are certain phenomena of a sociological nature whereby many offenses are not reported.

One of these phenomena, which the work group agreed to call « tolerance », can occur at various levels :

a) In the case of the victim

The victim decides not to lodge a complaint. Many interesting motives were brought forward by the participants in this regard : 1) the damage done was not considered important enough to justify a complaint ; 2) a lack of confidence in the organizations of the administration of justice ; 3) the poor reception accorded complainants by the police services, sometimes going as far as to treat them with suspicion, as though they themselves were suspect ; 4) the pressure of certain social *milieux* in the case

of crimes involving honour to urge the victim to take justice into his own hands.

b) In the case of the group

The last motive mentioned establishes the link between the tolerance of the victim and that of the group. In fact, there are numerous groups who accept certain behaviour as inherent in the local customs and, as a result, find a complaint against the author unjustified. An example of this phenomenon is given by Egypt in the matter of drugs and the corruption of public officials.

The use of certain drugs, such as cannabis in particular, is linked with generally accepted social customs, even though the law severely represses both its trafficking and consumption. The wide-spread social values operate here in favour of the author of an act considered criminal by law but generally accepted by the community.

Concerning the corruption of public officials, a study undertaken by the National Centre for Social and Criminological Research in Cairo, showed that it was linked with institutional, social, individual and political factors (see Yassin and Megahed, 1973, p. 10).

The institutional aspect raises the problem of bureaucratic practices in government administration and in public enterprises. The social aspect more particularly concerns the values prevalent in each class of society and its attitudes toward deviant behaviour and the law. In this area, the study of the economic aspects of corruption is important : the standard of living and material situation of the officials are the main elements involved.

The individual aspect is examined, in turn, through case studies which may have a bearing on the structure of the relations between the official and the public. In fact, it has been realized that the only possible way to obtain the service of public officers is to stimulate their action through this relationship.

Finally, the political aspect lies in the public controls which can be exercised through the Arab Socialist Union, and is therefore slightly outside the strict criminological framework in which we wish to remain.

The public often not only tolerates, but sometimes encourages or itself participates. In Turkey, for example, the

community puts pressure on a husband whose wife has been unfaithful to avenge his honour in spite of the laws ; whereas in Israel, tax evasion is considered an achievement as long as its author is not arrested. In case of arrest, however, the author no longer escapes social stigmatization. This is strictly related to the conviction, however, or to the simple fact of having had to go through the legal system, not to the perpetration of the act.

In Algeria, in a campaign undertaken to urge the public to expose crimes which come to their attention, the slogan taken from the Koran was used : « Do not refrain from bearing witness ». However, the results of this campaign are not available.

c) In the case of the police

Because of their heavy workload, the police must concentrate their efforts on the most serious and most harmful crimes. They sometimes even receive directives not to follow up certain conduct despite its illegality. This is the case for abortion in Israel, where, about twenty-five years ago, the police force received orders not to prosecute authors of this crime as long as no physical harm to the woman ensued. It is also the case for homosexuality, provided that no scandal or children are involved.

The opposite occurred in Lebanon. It is reported that a Minister of justice undertook a campaign against vagrancy and begging. Ten times the number of arrests were then made for this type of infraction, but the actual criminality did not change. The volume of arrests subsequently decreased with the departure of the Minister.

This is what led some participants to say that « tolerance is a safety valve that prevents the overcrowding of the courts ».

d) In the case of the prosecution

Tolerance here is reflected in the discretionary power of the Public Prosecutor to bring a case before the courts.

e) In the case of the courts

These, in turn, can utilize the laws providing for absolving or other excuses to obtain the acquittal of certain accused. It is an application of the discretionary power of the judge.

This leads us then to the second subject studied by the workshop — the law.

B. THE LAW

Before speaking about the attitude of the law toward acts that are tolerated or not by social groups, we must place the present laws of the area in the context of their historical origins.

1. HISTORICAL ORIGINS

The Muslim law contained in the Koran was not limited to the proclamation of dogmas of the faith and the regulation of prayers and pilgrimages. It also dealt with aspects of personal status (marriage, divorce) of civil law (obligations, contracts, inheritances) and criminal law (crime, punishment).

With regard to crime, the Muslim law recognized two types of crime : those specifically mentioned in the Koran and for which specific punishment is provided, such as murder, assault, thefts, adultery, etc., known as « Hodoud » ; and those not specified by the Koran, but derived from the principles and values of Islam and which constitute a danger to the community. With regard to these, the judge has complete discretion in deciding the punishment. They are known in Arabic as « Taazirate ».

The general principle of the Islamic criminal law, however, is based on punishment being proportionate to the harm sustained and even, as far as possible, identical to it. The law of the « Kassas » provides compensation of « a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth... »

This legislation was applied in all regions under Islamic rule until the middle of the XIXth century. At this time, in 1858 to be exact, the Ottoman empire replaced it by the French code of 1810 as it stood, that is, without including the various amendments adopted in the interim by this same code. This code was ill-received by the people, which led to its disappearance in Turkey in 1926. Elsewhere, as the countries of the region left the empire, they adopted their own legislation, as was the case for Iraq in 1918 and in 1930, Palestine in 1936, Egypt in 1937, Lebanon in 1943, Syria in 1949 and Jordan in 1951 (see El Augi, 1973b, p. 18).

Today in the Arab countries, there are still three types of law : 1) the Muslim law, still enforced in its entirety in Saudi Arabia, in Yemen and in several principalities of the Arabian Gulf ; 2) the Roman or European law on which are based the codes of Egypt, Lebanon and Syria ; 3) the Anglo-Saxon law from which the laws of Iraq and the Sudan are derived.

In the countries which adopted European systems of law, the link with Koranic tradition, at least in criminal matters, has been completely broken, and it may be said that where the substantive law is concerned, there is no influence of historical origin to be seen.

In Turkey, however, the evolution toward substantive law occurred in a particularly interesting way. For almost fifty years, there was a duality of jurisdictions. The first, enforcing the substantive law, tried criminal cases, but the defence could bring them before a second jurisdiction — a religious court. These were ultimately eliminated as no one resorted to them.

Some legislative systems of the region, however, are now undergoing fundamental changes : certain countries are changing from Muslim law to substantive law ; others from substantive law to Muslim law, as exemplified by a recent trend in Libya ; still others are going from common law to Roman-type law, as for example, the Sudan. Nevertheless, there is a search throughout the Middle East for local identity to which criminal legislation can be applied.

Abdallah El-Arabi, an Arab author, defined the problems of identity in the following manner : there is, he says, a problem of authenticity, a problem of continuity, a problem of method and a problem of expression.

Thus, the discussion can turn once more to the question of historical influences, which, according to some, persist in spirit even if not in the written law, and give the substantive law of the Middle East a tendency towards retribution, the sequel to the law of retaliation and to Muslim Law, in spite of the secularization of legislation.

2. THE ATTITUDE OF THE LAW WITH REGARD TO SOCIAL VALUES

Discussion on this subject must begin with the question of « tolerance » referred to above.

By analyzing the factors liable to engender this « tolerance », which was previously discussed as being itself a concept that affects criminal statistics, it becomes evident that it is a function of a certain social culture or various sub-cultures whereby the values adhered to by different *milieux* can come into conflict with the legislative codes or with the requirements of substantive criminal law.

The problems of the *vendetta*, crimes of honour, the use of drugs, the corruption of officials or tax evasion are some typical examples in the region studied. This has led some participants to speak of a sort of conflict between substantive law and customary law, a conflict whose solution is complicated by the fact that contrary to other branches of law, custom can in no way be considered a source of criminal law, especially a codified system.

Another aspect of this complexity comes from the fact that it is hard to understand the scope of the word culture, and, *a fortiori*, the word sub-culture. If for the first, more than 160 definitions have been given, all valid, one may easily imagine the impossibility of determining exactly what a sub-culture is.

Finally, when we speak of a social culture or value, we must guard against too simplistic a generalization. Society, in any given country, is actually only a sum total of social groups, whose thinking, customs and values can vary widely from one group to the other.

Thus the law, finally, can be considered the reflection of values accepted by one of these groups — those who govern — who may sincerely believe that it is these values which are capable of assuring the best social organization. The criminal law, then, and its sanctions, becomes the means of having these values prevail.

If we now question the need for agreement between the criminal law and the values actually followed, the discussion takes a new trend. We are no longer speaking about society as a whole, but the importance of the attitudes of various pressure groups.

A first suggestion of the participants was that the opinion of these groups must be taken into consideration, but that the lawmaker must also take action against certain values he may consider negative.

It was further felt that the legislator must guard against adopting laws that would not be put into effect. Why pass laws which might not be enforced because of tolerance ? Is tolerance not, in the end, an indication of weakness that lowers the prestige of the law, especially since this attitude has something irrational, variable and uncertain about it which causes the law to fall short of its objective of precision and planning for the future ?

Would the certainty of punishment, indispensable to the prestige of criminal law, not benefit greatly from the decriminalization of tolerated acts and the substitution of civil or administrative methods of reaction in lieu of the criminal sanctions provided solely in the codes ; particularly in view of the fact that according to some, tolerance is a means of relieving the courts of some of their excessive work load ?

There are certain criteria that can be set forth regarding the expediency of the intervention of criminal legislation. They can be summed up as follows :

1) Is the act concerned actually undesirable ?

2) What methods of intervention are possible with regard to an undesirable act ? Is the State justified in intervening ?

3) If so, will this intervention be juridic or non-juridic ? And here the criterion should be based on a cost/benefit, cost/advantage or cost/efficiency study, the idea of cost being considered here in the broadest sense of the term, that is, financial as well as moral.

4) Finally, has the penal system the actual material equipment to accomplish its role in the sector which is to be criminalized ?

It is the answer to these four questions which determines the possibility of making a rational decision.

3. THE LAW AND JUVENILE DELINQUENCY

One field where the conceptual problems we have set forth have particular importance is that of the behaviour of minors.

Here the law is confronted by the need for a far more institutionalized prevention than for adults, because of the problem of judgment in terms of criminal responsibility, and finally, with the problems of rehabilitation and resocialization whose anticipated results are generally more optimistic than for adults.

a) Rehabilitation

In the Middle East, there has been a trend since 1937 toward more and more individualization of measures for the rehabilitation of juveniles. In addition, there is a tendency to adopt special laws outside the penal code to regulate these measures. Whereas in Lebanon, Egypt, Kuwait and Turkey, juvenile delinquency is still dealt with in the code, special laws have been created in Jordan since 1951, Syria since 1958 and Iraq since 1962.

Furthermore, the rehabilitation of juveniles takes place in specialized institutions following an appearance before a juvenile court.

An interesting opinion was offered regarding the need to try extra-mural treatment of children and to develop probational measures as much as possible.

However, the individualization of measures of treatment seems to come up against major problems of equipment and specialized personnel.

b) Prevention

With regard to prevention, it was believed that one of the best methods for according children a proper education was to provide a home for them ; furthermore, in spite of the fact that the Muslim law does not permit adoption, many have instituted it or resorted to devising a law to allow it. In 1959, Lebanon introduced legal adoption as a means for the prevention of delinquency, Tunisia did the same in 1958, while Iraq, in its law of 1962, included a measure it called « the annexation of the child » to a family, on condition that the said family had had no children after seven years of marriage.

In addition, many countries provided for the possible forfeiture of paternal authority if it constituted a danger to the normal development of the child.

Most of the legislation also permits the court to place a child in a foster home in the case of moral or physical danger.

c) Responsibility

With regard to the age of criminal responsibility, it was ascertained that in Lebanon, the question of judgment was dropped, and until the child reaches the age of fifteen, there is no

need to find out whether this child can or cannot be held criminally responsible for his acts, but in all cases measures should be taken for his protection and rehabilitation. In Turkey, the age of responsibility is eleven years, while the question of judgment applies between eleven and fifteen years of age. In Israel, a child is not criminally responsible until the age of nine, while for boys from the age of nine to sixteen and girls from nine to eighteen, criminal responsibility is attenuated. Finally, in the Soviet Union, criminal responsibility begins at eighteen except for the most serious crimes, in which case the judge can consider the child responsible if he has reached the age of fourteen.

The idea of « dangerousness », understood here to mean the probability of committing future infractions or constituting a danger to society, is particularly emphasized by the soviets as a criterion in the judge's decision. Also, the possibility of taking action prior to the court phase can at the same time be used to withdraw cases whose authors have ceased being a danger to society.

But here again, one might find oneself faced with a lack of qualified personnel able to make a clinical diagnosis of « dangerousness », which leads us to the third and last subject of our workshop, that of problems in the administration of justice and the institutions responsible for its functioning.

C. THE INSTITUTIONS

The institutions charged with the administration of justice can be studied according to the chronological order of their intervention following the perpetration of a crime. Thus, the first to appear on the scene is the police organization, then the investigators of the public prosecutor make their contribution, next comes the court, and finally the institutions charged with the execution of the sentence.

At each of these levels, there is a problem of personnel, equipment and functioning, which our work group dealt with only briefly due to the time allotted for discussion.

1. THE POLICE

The first to intervene in a case of crime, the police have a role of prime importance in the repression of crime. In the Middle East as elsewhere, even in the industrialized countries of the

West, this role is not the only one assumed by the police, for their activities include numerous other services to citizens. However, the public identifies them more readily with repression than with any other social function. The IVth International Symposium in Comparative Criminology, held at Mont-Gabriel in 1972, whose subject for discussion was the police, confirmed this almost unanimously [2].

Thus, as the Algerian delegate to the workshop relevantly pointed out, the very institution of a police force is *a priori* considered an attempt upon individual liberty. The police must therefore accomplish their role in the fight against crime with the least possible interference in the liberty of citizens.

But the police generally being the only ones to go to the scene of the crime, the responsibility of gathering clues and proof is usually incumbent on them exclusively. Often the conducting of the whole case before the courts will depend on this. The police are thus placed in a delicate position, having to face the dilemma of efficiency versus respect for individual liberty. Hence we understand the importance of appropriate criteria of selection and recruitment and programmes for adequate police training.

But the practical application of these conclusions, at least in the region in question, comes up against problems of salaries and working conditions. It was also ascertained that in Israel, for example, the turn-over of police man-power is decreasing, that is to say, each year more persons leave the police forces than there are new recruits.

The image of the police or the way they are viewed by the public, however, is not far removed from the truth. It has been found that the policeman, probably for reasons of salary and the working conditions previously mentioned, would like to be disturbed as little as possible. Sometimes his relations with the citizen are tinged with a certain distrust, even rudeness. Even the complainant does not escape the sort of interrogation which makes him feel his integrity is in doubt and, consequently his dignity is offended. Some participants went so far as to say that the police, by their own behaviour, deprive themselves of the possible collaboration of the citizens.

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2. See L. Hulsman, J. Rico and S. Rizkalla (1972), Report of Group I of the IVth Symposium of the Police and Society.

Finally, since it is the police who have the first contact with the delinquent, their sometimes arrogant attitude may prejudice the process of rehabilitation, which ought to be the ultimate goal of the whole system of the administration of justice.

The brief reference to the role of the police, their image and the collaboration of the public in the accomplishment of their tasks, is nonetheless sufficient to draw attention to a certain number of problems which merit particular study in the region. They especially concern the criteria of selection, norms of hiring, the training of policemen, their salaries and working conditions, and finally, improvement of the equipment they should be given to deal with the prevention of crime and the gathering of proof.

2. THE COURTS

The organization and functioning of the courts could be the subject of a number of sub-themes, some of which are : the appointing and training of judges, the image of justice held by the man on the street, the over-crowding of the courts, legal procedures, methods for the individualization of punishment and the disparity of sentence.

It will be understood that with the number of questions discussed, the lack of time made it necessary to choose the subject that seemed to interest the participants most, and that was the appointment and training of judges.

It appears that, in most of the countries, judges are appointed from among public prosecutors or lawyers of some years' experience, either by the executive or by committees made up of representatives of the courts, the bar and parliament. We said *most of the countries*, for in Lebanon, this method does not apply, and since 1963, the magistrature has become a career starting with specialized training of three years' duration subsequent to the law degree.

Forty per cent (40%) of the magistrates in office today have gone to this school and an appreciable improvement in the administration of justice has been noted.

In the other countries, the problem of the training of judges remains a subject of major concern. Many judges do not feel they need to take any training whatsoever, even though in the Law faculties, they received a purely juridical training.

However, with the increasingly wide-spread adoption of the principles of individualization of criminal sanctions, the judge must be more and more familiar with the social sciences, human psychology and, at least for examining magistrates, even the police sciences. He should be able to understand and interpret the reports of social investigations, psychometric tests or psychiatric expertise, as well as having a practical knowledge of the local availability of treatment, so as not to pronounce sentences for which there are no means to put them into effect.

In this regard, it is noted, in Lebanon, for example, that judges were against the restriction of preventive detention (while awaiting trial), even though about 50% of inmates were found to have served their complete term of imprisonment before they had even been convicted.

Also, the different countries resorted to varied methods of making judges aware of the evolution in the doctrine of the administration of justice.

For the past ten years, the National Centre for Social and Criminological Research in Cairo has been organizing training programmes of a period of three months for prosecutors. During this period, they are given courses in criminology, sociology, psychology and research methodology. In addition, a project was planned with a view to creating a new centre for legal research which would assume the training of judges. Nonetheless, according to the representatives for this country, special programmes are needed within the Egyptian faculties of law.

In Turkey, since 1943, the Institute of Criminology has organized meetings with lawyers and judges, lasting three days, which gives them some awareness of criminological theories.

Finally, an experiment in India was cited. It consisted of inviting judges to a seminar of two week's duration. It was opened by the Minister of the Interior and concluded by the General Prosecutor, and during the interval it was possible for the judges to enter into contact with a certain number of experts. The results of this system were considered promising.

As to methods for individualizing the criminal sanction, they were studied during the discussion on the institutions charged with its execution.

3. THE CARRYING OUT OF PENAL SANCTIONS

The participants noted that any attempt at judicial individualization would be useless if there were no institutions capable of adequately carrying out the sanctions imposed.

Traditional prisons are inadequate and the personnel connected with them often lack an appropriate training. In addition, alternatives to imprisonment, such as probation, require a particularly qualified personnel which is unfortunately not always available.

However, there are many attempts at modernization which deserve mention.

In Turkey, in 1965, a new law passed for the execution of punishment. It unified the various types of imprisonment, previously classified as solitary confinement and ordinary prison, to replace them by three kinds of institution allowing a greater individualization in the penitentiary system : closed prisons, semi-open prisons, open prisons, where almost 70% of the penitentiary population is to be found.

A period of six weeks is devoted to the examination of prisoners immediately after their conviction, in order to classify them.

Moreover, imprisonment over week-ends or at night is possible in the case of short term penalties.

Finally, several alternatives to imprisonment are possible, such as fines, the forbidding of certain activities, compulsory public work, or a stay of proceedings, which was recently extended to all penalties of imprisonment not exceeding two years.

CONCLUSION

It is not easy to arrive at any specific conclusions after this rapid survey which only two days of meetings allowed us to make.

The possibilities for future research are nonetheless an important subject upon which to conclude our discussion.

From the start, it has been evident that the aspect of crime in the various countries of the region presents features at once similar and dissimilar. Thorough studies of the blood feud and crimes of honour, the evolution of crimes against property in

accordance with social indicators and economic development, and of the forms and growth of juvenile delinquency, could bring to light many interesting facets for comparative study.

These studies, however, necessitate a better organization of statistics and the development of an appropriate comparative methodology. To accomplish this, it would be necessary to hold additional regional seminars, convening specialists of international scope.

Sociological studies of the tolerance factor could also be of particular interest. In these rapidly changing countries, under certain conditions, the social values probably fluctuate more quickly, whereas in other circumstances, the traditions continue to have considerable influence. The correlation between these two variables might well be another subject worthy of in-depth research.

Where the administration of justice and the law are concerned, the problems do not seem to differ greatly from one country to the other, no more so than between the countries of the region and more industrialized areas of the world.

Of the studies made to date, however, there seem to have been few on the Middle East and there is room for research on the police, its role, its recruiting problems, status and organization, its technique and working conditions, its public immage and its powers, etc. The same applies with regard to the courts and judges as well as punishment and its execution.

The region is fertile ground for experimentation and dynamism, and we believe that this symposium will have contributed to a greater awareness of the immense scientific possibilities open for the future.

REFERENCES

ABOU-ZAHRA, M. : *Crime and Punishment in Islamic Doctrine* (in Arabic), Cairo, Dar El Fikr El-Arabi.

BULLETIN STATISTIQUE MENSUEL, ministère du Plan, Direction centrale de la statistitique, U.P.E.L. (1963) 25 années au Service de l'enfance, Beyrouth.

EL AUGI, M. (1963) : « Procédure pénale », *le Droit libanais*, t. II, Paris, Librairie de droit et de jurisprudence.

EL AUGI, M. (1965) : *Comparative Study on juvenile Delinquency in the Middle East*, New York, Publication of the United Nations ST-SOA-SD.

EL AUGI, M. (1970) : *Délinquance juvénile au Liban*, publication du Centre de recherches, Beyrouth, Université libanaise, Institut des sciences sociales.

EL AUGI, M. (1973a) : *Criminal Responsibility under Lebanese Law* (in Arabic), 1st ed.

EL AUGI, M. (1973b) : *General Theory of Crime under Lebanese Law* (in Arabic).

EL AUGI (1973c) : *Course of Criminology*, Beirut, Faculty of Law and Social Science.

MINISTERE DU PLAN (1965) : *le Service social au Liban.*

MAHMOUD-MOUSTAPHA, M. (1962-1963) : *Manual on Criminal Procedure* (in Arabic), 8th ed., Cairo, El-Chaab.

NAGUIB-HOSNI, M. (1964) : *Mentally Disturbed Delinquents* (in Arabic), Cairo, Dar El-Nahda El-Arabeya.

NAGUIB-HOSNI, M. (1966-1967a) : *Manual on General Criminal Law* (in Arabic), Cairo, Dar El-Nahda El-Arabeya.

NAGUIB-HOSNI, M. (1966-1967b) : *Manual on Penitentiary Science* (in Arabic), Cairo, Dar El-Nahda El-Arabeya.

RAMADAN, O.E.S. (1967) : *Course in Criminology* (in Arabic), University of Cairo.

SAFA, Elie (1960) : *l'Emigration libanaise*, Beyrouth.

UNITED NATIONS (1963) : *Report on the World Social Situation.*

UNITED NATIONS : *Documents and Papers on Criminological Research*, presented at the Congress of Copenhagen.

YASSIN, S. and H. MEGAHED (1973) : *Crime and Social Change in Egypt*, unpublished paper presented at the Vth International Symposium in Comparative Criminology, organized by the I.C.C.C. at Santa Margherita di Ligure in Italy.

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