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Book Reviews

Richard C. Allen

Lawrence D. Gaughan

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BOOK REVIEWS

IN SEARCH OF CRIMINOLOGY. By Leon Radzinowicz. Cambridge, Massachusetts: Harvard University Press, 1962. Pp. viii, 254. \$4.75.

In this little book, Leon Radzinowicz, Wolfson Professor of Criminology and Director of the Institute of Criminology at the University of Cambridge, presents a brief survey of criminology in England, the United States, and eight countries of continental Europe. His perspective is historical as well as geographical: in discussing each nation, he begins with a sketch of the concepts and personalities that lent vitality to the development of its criminological teaching and research and concludes with an analysis of the contemporary scene, based on his own first-hand observations during a recent world tour "in search of criminology."

With so vast a canvas, there are, understandably, some erring strokes of the brush;¹ yet, Professor Radzinowicz is both an able researcher and an acute observer, and he has produced an eminently readable book: scholarly but never tedious, and succinct without being cursory.² It is a significant contribution³ that will enhance the reader's understanding of the evolution and current status of the discipline—or disciplines⁴—of criminology and of the contributions of its most dynamic figures. It provides a well indexed compendium of the leading criminological institutes and congresses and an excellent bibliography.

Yet, the book is in many ways a disheartening one, presenting, in the words of one reviewer, a picture "rather too bleak than too rosy."⁵ Professor Radzinowicz notes: "One of the most disappointing conclusions I brought home from my tour was the continuing neglect of the teaching of criminology, both at the undergraduate and postgraduate levels."⁶ There is substantial evidence to support this conclusion in the data obtained in nearly every country:

1. See text accompanying notes 29-31 *infra*; see also the sharply critical review by Hermann Mannheim, 3 BRIT. J. CRIMINOLOGY 187 (1962).

2. He is the author of the definitive *History of English Criminal Law* (vol. 1, 1948; vols. 2 and 3, 1956), and the editor of the *Cambridge Studies in Criminology* (formerly the *English Studies in Criminal Science*).

3. More accurate and of wider scope than the UNESCO publication, THE UNIVERSITY TEACHING OF SOCIAL SCIENCE—CRIMINOLOGY (1957).

4. As the author points out: "Criminology is not a primary and self-contained discipline but enters into the provinces of many other sciences which treat of human nature and society. Indeed, any advance made in causative research into crime must arise out of advances achieved in these other departments of knowledge." RADZINOWICZ, IN SEARCH OF CRIMINOLOGY 175 (1962).

5. Mueller, Book Review, 37 N.Y.U.L. REV. 348 (1962).

6. RADZINOWICZ, *op. cit. supra* note 4, at 170-71.

Italy: Serious effort to understand the phenomenon of crime, its incidence and distribution, the social, physical and mental factors that are its roots, and the effectiveness of various methods of control began with the school of "positivists" of late nineteenth century Italy—with Lombroso, Baron Garofalo and Enrico Ferri (under whom Radzino-wicz completed his doctoral work). Today, the great criminological institute founded in Rome in 1911 (Scuola d'Applicazione Giuridico—Criminali) is "in a state of disorganization"; Italian criminology has become sterile, and "isolated from significant trends of thought and study elsewhere"; and contemporary publications of its leading figures are "but feeble echoes" of a glorious past. The author cites several causes for the present state of affairs, including failure of the schools to provide adequate opportunities for research and academic advancement for faculty members wishing to pursue criminological studies (and "criminology cannot be taught without criminologists"), and ideological disputes engendered by the positivists' insistence on a utilitarian approach to the question of criminal responsibility—an approach based upon the concept of social dangerousness rather than moral guilt—as a result of which they have been unsuccessful in gaining acceptance of a penal code based on the "dangerousness" of the offender, but have instead "made criminology itself appear dangerous."⁷

Austria: The great figure of Austrian criminology, Hans Gross, disassociated himself from Italian positivism, or as he referred to the movement, "Lombroso and his lot" (Lombroso und seine Leute). The Institute of Criminal Sciences which he founded at Graz, and the one at Vienna of which it was the prototype, are still in existence; but both have placed primary emphasis on criminal investigation (criminalistics) to the detriment of criminological teaching and research.⁸ Further, the author reports, there is today neither interest in nor funds available for improving the prison system—indicating "a climate in which criminological studies can hardly be expected to flourish."⁹

Germany: In Western Germany, courses in criminal law and procedure play a major role in the curriculum of each of its seventeen law schools; and such scholars as Feuerbaeh, von Jagemann, Oettinger, von Mayr,¹⁰ and, in more recent times, Franz von Liszt and his collaborators, have contributed greatly to the development of crimi-

7. *Id.* at 18.

8. *Id.* at 32.

9. *Id.* at 36.

10. There is some difficulty with names at this point: the author occasionally referring to Eugen von Jagemann as "Eugené de Jagemann," and confusing Georg von Mayr with Hellmuth Mayer. Mannheim, *supra* note 1, at 188.

nology. However, there is no true criminological institute, and in most of the law schools (the Universities of Hamburg and Freiburg constituting notable exceptions) "interest in criminology is individual, has slender support and little official recognition."¹¹

France: France was the first country to initiate the regular publication and analysis of criminal statistics. To the pioneering work of Lacassagne, Gabriel Tarde, Émile Durkheim, Vidal, Raymond Saleilles and others can be traced much of what "has proved of permanent value in modern criminological thought."¹² In 1905, a congress convened in Paris by the International Union of Criminal Law unanimously recommended that there be "organized in the faculties of law special teaching, theoretical and practical, for the whole range of penal studies," and today there are institutes of criminology and penal science in eleven of the twenty-five faculties of law.¹³ As Professor Stefani, director of the Paris Institute, has put it, "criminology needs a conclusion," and it is the function of law to make practical application of its findings. However, once again our expectations, based upon so noble a beginning, are frustrated by the realities of the present: the Institute of Paris is today principally a training academy for the *gendarmérie*; it has no permanent scientific staff; its budget, library and other facilities are inadequate; no empirical research has yet been undertaken; and "the entire teaching is discharged by a group of fourteen external lecturers, whose main academic interests or other responsibilities, lie elsewhere."¹⁴ Similar conditions exist in the other institutes. Criminology has exercised a profound and wholesome effect upon the criminal law and penal system of France; its influence might have been vastly greater had the institutes become a focal point for meaningful study and research in the field. As Prof. Levasseur of the Paris Faculty of Law observed: "It is the lack of material means, and not of personnel, nor of the taste for criminological studies, which paralyzes inquiries."¹⁵

Belgium: During the ten years from 1929 to 1938 schools of criminology were established in each of the four universities of Belgium, as a result of the efforts of men like Adolph Prins, Léon Cornil and others. However, "no chair of criminology has yet been established in any of the faculties of law, and none of them provides a regular course in criminology, even as an optional subject";¹⁶ the schools of criminology

11. RADZINOWICZ, *op. cit. supra* note 4, at 54.

12. *Id.* at 63.

13. *Id.* at 70-71.

14. *Id.* at 75.

15. *Id.* at 81.

16. *Id.* at 91.

themselves, through lack of adequate financial support, have failed to fulfill the expectations with which they were founded.¹⁷ The newly established Centre d'Étude de la Délinquance Juvénile, connected with all four universities and with the Ministry of Justice, however, "holds out encouraging prospects for the study of one particular aspect of crime."¹⁸

Holland and Scandinavia: The picture in Holland and the Scandinavian countries is very much brighter. Criminology in Holland began with the work of Willem Adriaan Bongers and has culminated in two excellent institutes (at Utrecht and Leiden), each directed by the faculty of law of the university with which it is affiliated. The Institute of Utrecht is closely connected with a psychiatric clinic that provides pre-sentence and pre-release evaluations of convicted offenders; both institutes work closely with the Ministry of Justice through its Research and Information Center and Central Advisory Board.¹⁹ Similar institutes exist in Norway and Denmark, under the schools of law at Oslo and Copenhagen, respectively.²⁰ There is as yet no such institute at Stockholm. However, the three countries have under consideration a plan to establish a common Scandinavian institute to promote comparative studies and to convene seminars for the exchange and mutual testing of experiences.²¹ Each of the four institutes suffers from a shortage of research funds, but they represent, as the author characterizes them in his chapter heading, "Hopeful Beginnings."

England: The development of criminology in England has been slow; indeed, "the systematic exposition of the criminal law as such, with which it is intimately connected, was not taken up in this country until fifty years later than on the Continent."²² Even in the early formative period, English contributions to criminology—especially the work of Howard Romilly and Jeremy Bentham—were of the first order; however, the Lombrosian concept of the "born criminal" created hostility in England toward the new discipline.

"The past twenty years have witnessed a considerable and encouraging growth . . . of interest in criminology as a subject both of teaching and of research, and this has owed much to increasing official and public support."²³ There is now a permanent Research Unit under the Home Office, able to carry on empirical research. Under the

17. *Id.* at 94.

18. *Id.* at 96.

19. *Id.* at 102-09.

20. *Id.* at 109.

21. *Id.* at 113.

22. *Id.* at 172.

23. *Id.* at 174.

Criminal Justice Act, the Home Secretary is empowered to grant funds to universities and individuals for criminological studies having a bearing on the administration of criminal justice. The Maudsley and Tavistock Institutes "enrich our knowledge of criminal behavior in its psychiatric and psychological aspects"; in the universities of London, Oxford, and Nottingham the work begun by Dr. Mannheim, Dr. Grünhut and Professor Sprott continues; establishment of a chair and an Institute of Criminology at Cambridge is "part of the general advance"; and several other universities have made promising beginnings. However, it is still true that in most law schools "students are expected to learn about the juristic contents of the various offences, but it is regarded as quite natural for them to remain ignorant about the phenomenon of crime itself. Even in the social science departments "the place assigned to criminology is still very restricted."²⁴

United States: Prior to World War I, criminology in the United States was largely imitative of the work going on in western Europe. In 1909, a national conference was convened in Chicago by the Northwestern University School of Law. Shortly thereafter the American Institute of Criminal Law and Criminology was created under the leadership of Professor John H. Wigmore. However, in the early years of the twentieth century, America became known, "not for its advances in the scientific study of crime, but primarily, if not exclusively, for certain novel experiments in applied penology . . . the indeterminate sentence, the probation system and the advent of juvenile courts."²⁵ In the period between the two world wars, criminology "established itself firmly amidst the sociological and social sciences"; and, while much of the volume of criminological materials currently being published in the United States does little to advance criminological knowledge,²⁶ "the United States is still leading the way in empirical criminology."²⁷ However, it is regrettable "that in the very country which leads the way in the development of criminology and where recognition of its importance to the administration of criminal justice is so widespread, its study should be confined almost

24. *Id.* at 175. Dr. Mannheim characterizes the "few pages" devoted to England as "significant more for what they omit than for what they contain." He disputes the author's assertion that there are opportunities to acquire criminological knowledge in continental law schools that do not exist in England, but offers in rebuttal reference to but a single inter-collegiate course at London University. Mannheim, *supra* note 1, at 189-90. It may be that Professor Radzinowicz's most significant sin of omission, with regard to the aforementioned review, is his failure to mention the *British Journal of Criminology*, of which Dr. Mannheim is an editor.

25. RADZINOWICZ, *op. cit. supra* note 4, at 116-17.

26. The author feels that a third of the annual production "serves no useful purpose," and another third is "of rather doubtful value." *Id.* at 121.

27. *Id.* at 122.

entirely to the departments of sociology and be so completely excluded from the legal curriculum."²⁸

The chapter dealing with criminology in the United States is by far the longest in the book; yet its treatment of the subject is not entirely satisfactory. In outlining the "major lines of research" now being carried on in this country, for example, the author discusses at greatest length the American Bar Foundation's *Survey of the Administration of Criminal Justice in the United States*, whose methods he describes as "an advance upon those applied in previous crime surveys."²⁹ The survey, it is true, makes use of a variety of research techniques (observations, interviews, statistical analysis, examination of records and documents, etc.); however, its scope is far too broad³⁰ and exhibits inadequate planning as to how the data to be obtained might be correlated and put into usable form. The result is that the Pilot Project has produced an amorphous mass of information, unused (and, in its present form, largely unusable) by scholars, practitioners, or administrators.³¹ Again, the author notes but two studies undertaken by law schools involving the "relationship between law and behavioral science," one of which—The University of Chicago Jury Project—is concerned only with civil cases. A number of others, more pertinent to a survey of criminological teaching and research, might have been cited. Furthermore, reference to the leading figures in criminology in the United States is inadequate. Sutherland, Cressey, Sellin, and the Gluecks are barely noted, and only a handful of legal scholars and psychiatrists active in the field receive any mention at all.

28. *Id.* at 162. Professor Radzinowicz overstates his case. He asserts that "towards the study of criminology as such the schools of law all maintain an identical aloofness; in none is criminology taught, even as a brief optional course of lectures." *Id.* at 161. However, Professor Mueller notes that New York University Law School offers seven seminars "distinctly criminological in compass." Mueller, *supra* note 5, at 351. And a partial review of current law school catalogues reveals that at least seven others provide one or more seminars in the field (the Universities of Chicago, Florida, Michigan, Virginia, and Southern California, and Harvard and Temple Universities). In addition, a number of law schools have established programs in law and psychiatry or law and the behavioral sciences that incorporate some consideration of criminological subjects, as do also many courses and seminars in criminal law and the administration of criminal justice. The author qualifiedly acknowledges this. RADZINOWICZ, *op. cit.* *supra* note 4, at 154. Undeniably, however, the quality of the emphasis is meager.

29. *Id.* at 132.

30. It encompasses every step and every agency involved in the criminal process, from the initial investigation to parole supervision; and includes topics as minuscule as "bicycle registration procedures" and as vast as "inadequacies in the definition of the accused's conduct in the substantive criminal law." See 1 AMERICAN BAR FOUNDATION, *THE ADMINISTRATION OF CRIMINAL JUSTICE IN THE UNITED STATES; PLAN FOR A SURVEY TO BE CONDUCTED UNDER THE AUSPICES OF AMERICAN BAR FOUNDATION* (1955).

31. The Foundation now plans to publish a series of monographs on such subjects as detection, arrest, charging, conviction, and parole, utilizing data obtained in the Pilot Project. A.B.F. News, Sept. 1963. Whether the inquiry will be pursued in other jurisdictions, as was originally planned, is not known.

A number of points are delineated by the author's comparative data and analysis: that there is a paucity of financial support for the scientific study of crime; that despite this fact, criminology has had an impact on even the most traditionally-oriented systems of criminal justice; that criminological teaching should not be confined exclusively to either the schools of law or the departments of social science, nor should it be allowed to become essentially an occupational training program to the exclusion of academic study—it has something of value to contribute in each of these areas; and finally, that in both the practical and academic spheres the reciprocal influences between sociology, psychology, psychiatry, and law should be strengthened.

It has been said that "former lawyers bade men study justice, but Lombroso bade justice study men." The anthropological theories of that venerable Italian scholar are today largely discredited, but for the impetus he gave to criminology he will always be remembered. So also should be remembered his imperative to the law.

RICHARD C. ALLEN*

TOWARDS ADMINISTRATIVE JUSTICE. By H. W. R. Wade. Ann Arbor: The University of Michigan Press, 1963. Pp. 138. \$6.00.

This thin volume contains the Thomas M. Cooley Lectures for 1961, substantially as presented by the author at the University of Michigan Law School. During that same year he was appointed to fill the newly-established second chair in English law at Oxford University.

"The twentieth century citizen," writes Professor Wade, "needs an enormous amount of official control to keep him properly regulated . . ." ¹ The practical problem is to find rules of procedure which will protect his individual rights but will not impair efficient administration. The author assumes that these two most basic goals of administrative procedure are not necessarily incompatible. But he also recognizes that the traditional techniques of lawyers are not always suited to meet the requirements of speed, low cost, and informality. He thus opposes efforts to graft law court procedures wholesale onto the administrative structure.

Professor Wade does not neglect the opportunity to draw several comparisons between the British administrative system and that of this

* Associate Professor of Law, The George Washington University, Washington, D.C.; Co-Director (with Professor Henry Weihofen), Mental Competency Study, sponsored by the National Institute of Mental Health.

1. WADE, TOWARDS ADMINISTRATIVE JUSTICE 24 (1963).

country. He is intrigued by what he terms the American "preoccupation" with independent regulatory commissions. Our habit of granting policy-making functions to agencies free from direct executive control he finds to be an especially striking feature of our manner of doing things. The efficiency of the British system, he explains, is rooted in the doctrines of parliamentary sovereignty and ministerial responsibility. He feels that the shortcoming of British administrative law is that it does not go far enough in the preservation of individual rights.

The author favors the proposals that have been made for tightening executive control over administrative agencies in this country, mentioning in particular the report of Dean Landis to President-elect Kennedy in 1960. Although he admits that the adoption of these recommendations would move American administration in the direction of the British practice, Professor Wade denies any claim for the superiority of the latter system. The British, he states with elegant humor, "have not yet reached the more sophisticated stage of finding that our government machine is too much cluttered up with judicial practices."²

The main argument of the book is for a distinction between policy matters and those which require objectivity of a judicial nature. He applies this distinction to the perplexing problem of how to treat the opinions of experts attached to ministries or agencies. Not every expert opinion in each administrative case can be referred back to the parties in interest for comment. Still, the parties are generally entitled to have their say on factual matters which could affect the administrative determination. The solution, he contends, is to distinguish legislative facts from judicial facts. The former are general facts of the same kind that a legislator would consider in the drafting of a statute. The latter pertain directly to the peculiar and local circumstances of the case at hand. He illustrates the point with a case history involving a landowner's application for a permit to open and work a chalk pit on his own property.³

The author believes that public opinion is properly an important factor in administrative law. He is concerned with the epilogue to a case—the question of whether anyone is pleased with the result. He feels that the man on the street—or, as he puts it, "the man on the Clapham omnibus"—has a good idea of what amounts to administrative justice. Thus he considers public opinion as a valid and worthwhile means to test the administrative system.

2. *Id.* at 54.

3. *Id.* at 107.

The lecture form lends itself to generalization, and a lecturer with sufficient depth of scholarship and thought can illuminate his subject. Professor Wade is certainly at ease with his form. He states things well, in the best of British manner. Because he avoids "lawyers' talk," he speaks with a freshness of approach. His book is worth reading.

LAWRENCE D. GAUGHAN*

* Instructor in Law, University of Virginia Law School.