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CRIME, JUSTICE AND CULTURE IN BLACK AFRICA

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CRIME, JUSTICE AND CULTURE IN BLACK AFRICA

An Ethno-criminological Study

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Translated by Dorothy Crelinsten

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Centre International de Criminologie Comparée

1985

TO MY WIFE BRIGITTE

AND MY DAUGHTERS PASCALE AND LAURENCE

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FOREWORD

Crime in Black Africa, and the public's reaction to it, is beginning to draw the attention of researchers, for it has come to be seen as inherent in the economic, political and cultural development of the African nations. However, the study of crime, and how the governments and people respond to it, is very difficult and complex in this changing milieu. This is due to the fact that the traditional African concept of law and justice is in constant conflict with that of the new penal codes, judicial procedures and social defence policies, which are based more on western "models" than on indigenous ancestral practices.

The very nature of the problems we propose to examine have made our work especially delicate, for, not wanting to take the risk of giving a false picture of the overall situation, it seemed to us impossible to undertake criminological research without taking into account the culture, values, norms and traditions of the African people. This being the case, we had to use an anthropological as well as a criminological approach in our research. Hence the subtitle "An Ethnocriminological Study".

The concepts and theories used are largely based on the parameters developed by Georges Balandier for his examination of the dynamism of development in Africa, the macro-criminological and comparatist thinking of Denis Szabo, as well as the models developed by Philippe Robert and Claude Faugeron for the critical study of the functioning of the system of criminal justice.

Our field of observation is the Ivory Coast, where we spent three years. Here we were able to re-examine the principal studies done on the continent by criminologists and juridic anthropologists, and to proceed ourselves with additional scientific exploration. We wish, therefore, to express our gratitude to the government of the Ivory Coast, which received us warmly and did everything possible to facilitate our work by allowing us unrestricted access to all the sources of data pertinent to our study. We are also grateful to the Canadian International Development Agency, which subsidized a programme of cooperation and exchange between the Universities of Abidjan and Montreal for a period of four years. The organization of several inter-African seminars was made possible by this programme as well as the realization of this research.

The ethno-criminological study of Black Africa which we undertook could have been a tedious task, had we not been able to count on the encouragment of Monsieur Maurice Cusson, Associate Professor at the School of Criminology of the University of Montreal. Throughout the entire editing of this work, we were guided by his stimulating comments and valuable advice. We are most grateful to him. We also wish to thank the anthropologists Jean-Claude Muller, of the University of Montreal, and Richard F. Salisbury, of McGill University, who were good enough to comment on our work, especially the ethnological parts. They are in no way responsible, of course, for the material we have retained.

Finally, putting aside the stylistic "we", this plural used in so-called "modesty", and turning to the personal "I" (where frankness is

"de rigueur"), I must in all sincerity acknowledge that if I am able today to publish this book, it is thanks to the constant and most effective collaboration of my wife, Brigitte Wachsmuth Brillon. In my most difficult moments, and for the most thankless tasks, she was always there, ready to encourage me and help me in the compilation of statistics, in the verification of tables and other data, as well as in the correction of the manuscript and proofs. To her, I offer this modest expression of my gratitude and deep affection.

SOMMAIRE FRANCAIS

L'Afrique noire offre aux criminologues un champ privilégié d'études ; surtout depuis quelques années, depuis que des chercheurs ont orienté leurs investigations vers la réaction sociale au crime et qu'ils ont focalisé leurs analyses sur le fonctionnement des systèmes, formels et informels, de contrôle de la déviance et des infractions.

En Afrique, la colonisation a implanté des droits et des institutions pénales modernes qui se sont superposés à des normes légales et à des mécanismes d'autorégulation traditionnels. On ne change pas des mentalités et des coutumes avec des lois. Si bien que, à l'heure actuelle, les anciennes structures sociales absorbent, selon le degré de hiérarchisation et d'organisation des sociétés, une plus ou moins grande partie des conduites définies par les populations comme étant répréhensibles. On ne saurait donc étudier le phénomène criminel et la réaction sociale au crime sans tenir compte de la dialectique qui s'est instaurée entre les systèmes juridiques coutumiers et modernes.

Jusqu'à maintenant, la criminologie a fait abstraction de ce dualisme institutionnel; ce qui l'a empêchée de découvrir les aspects "criminologiques" de la réalité africaine. Ces aspects ne peuvent être mis en évidence que par une approche ethnocriminologique qui tient compte à la fois de la survivance des circuits archaïques de la résolution des conflits, de

leurs modes d'opération et des liens qui se nouent entre eux et les organismes institutionnalisés de contrôle social. C'est dans cette perspective que s'insère notre approche du phénomène criminel et des réactions qu'il suscite de la part des individus et des groupes.

L'hypothèse de base sur lequel se greffent les diverses recherches que nous avons entreprises est la suivante: compte tenu de l'écart culturel qui existe entre la justice criminelle étatique, d'inspiration occidentale, et la conception traditionnelle du règlement des litiges, il en découle que les justiciables n'auront recours aux agences pénales gouvernementales que de façon sélective et, autant que possible, que lorsqu'ils pourront en tirer des avantages.

Cette vision du problème nous a conduit à identifier des différences dans les définitions des "infractions" telles qu'elles sont formulées dans les coutumiers et dans les codes pénaux contemporains. Ces différences introduisent un premier filtre. Lorsque les lois criminalisent certains actes, qui traditionnellement étaient considérés comme non criminels (par exemple, la dot, la polygamie, les signes d'identification tribale, les ordalies...) et en décriminalisent d'autres (violations de tabous, sorcellerie, abandon de famille...), il surgit inévitablement une dysfonction des organismes officiels qui diminue leur emprise et qui favorise le règlement des différends (dont la nature ne fait pas l'objet d'une même définition selon les deux instances de régulation) selon les modèles ancestraux.

Une autre dysfonction, qui forme un second filtre au renvoi de

crimes et de délits devant les tribunaux et les juges provient d'une divergence dans les philosophies pénales. La justice moderne apparaît comme étant surtout orientée vers le châtiment et la punition alors que, chez les peuples traditionnels, elle était beaucoup plus axée sur la compensation du tort causé et sur l'indemnisation de la victime.

A partir de ces prémisses nous avons, en utilisant les résultats des recherches ethnologiques (principalement celles des anthropologues juridiques) et criminologiques; en nous référant à des témoignages de citoyens et de juges de brousse; en étudiant les attitudes des populations africaines; en analysant, en les replaçant dans l'espace, les statistiques criminelles; nous avons donc tenter de voir comment -- dans le contexte d'une évolution rapide -- se négociait le partage entre les juridictions modernes et traditionnelles.

Ce qui ressort de ces enquêtes, c'est que le système de justice criminelle des Etats africains n'a qu'une action limitée; action qui est fonction du rôle que lui accordent les justiciables eux-mêmes. Cette action des agences officielles est différentielle et dépend du degré d'acculturation des populations concernées. Dans les grandes villes, les citoyens y font appel davantage parce que la polymorphie ethnique rend presqu'inopérants les droits coutumiers. Par contre, plus on s'éloigne des grands centres urbains et industriels, plus le nombre et la gravité des litiges, qui font l'objet d'arrangement devant les autorités claniques ou villageoises, s'accroissent.

Face à ces constatations, force est de reconnaître que la criminalité cachée -- le chiffre noir -- est beaucoup plus élevée en Afrique qu'en Europe ou en Amérique. De plus, il faut admettre que toute recherche criminologique qui ne se fonde que sur la criminalité connue de la police et des tribunaux (comme c'est le cas de pratiquement toutes les investigations faites par des criminologues sur le continent) n'a aucune valeur représentative de phénomène criminel et de la réaction sociale au crime en Afrique noire. Pour appréhender ces réalités, la criminologie doit s'associer à l'anthropologie de façon à pouvoir découvrir les structures d'autorégulation des diverses ethnies, les causes de renvoi des infractions devant les institutions administratives, les motivations des justiciables et leurs attitudes à l'égard du droit et de la justice modernes.

Chapter I

Toward an African Criminology

The stranger sees only what he knows.

(African saying)

Still almost virgin territory, crime in Africa and the public reaction to it offer the anthropologist and criminologist a fertile field of investigation. Bridging the past and the future, the African States have the advantage of presenting regions where two social orders exist side by side, each having their own system of values and their own methods of social control. To do a thorough analysis of this complex situation, an attempt must be made to identify behaviour which, according to the ancestral codes, is defined as "criminal", as well as the traditional mechanisms, still used today, for restoring public order when an infraction has been committed. The analysis should also try to evaluate the dominance of the modern penal system, its acceptance by the populations concerned, its sphere of influence and the strength of its foothold.

1. The paradigms of an ethno-criminological approach

In Africa, the accelerated pace of history is particularly favourable for space/time comparisons, for here the evolutionary process, which lasted over several centuries in Europe and America, is compressed into fairly brief phases that lend themselves to much more precise and direct exploration. The researcher has the exceptional advantage of being able to observe and follow in detail, over periods of a short cycle, the variations in the extent and structure of the criminal phenomenon and the

public reaction to crime as it occurs is a society shaken by conflicting values and cultures.

Crime as an indicator of anomie

In Africa, the abrupt passage of a tribal society to a modern one, where the bonds of kinship lose much of their meaning, has an effect on all the elements of economic, social and cultural life. As development proceeds, misinterpretations and gaps occur between the old social systems, which are losing hold, and the modern systems that are attempting to become established and dominate. Two types of societies are in conflict: the one founded on the extended family - "blood ties" - an alliance that is the mythical justification for the ordering of social relations, the other built on the differentiations and competition of a market economy and "economic rationalism" (Balandier, 1971). This conflict creates disorganization which in turn leads to maladjustments, deviance and pathology.

Under such circumstances, crime plays a significant role as an indicator of anomie, and as Balandier (1971) suggests, it should be studied from a relativist point of view, that is, by considering all the maladjustments that characterize the society analyzed at a given moment. In a way, the criminological approach belongs within the general framework of a sociology of development or a sociology of change. This type of overall approach is indispensable and should constitute the first step in the interpretation of crime in rapidly developing countries. An understanding of the criminal phenomenon can only be superficial and lead to erroneous or contradictory findings if it is not based on the existing

cultural realities, the motivations and attitudes of the people, if it does not refer to the evolution of values, beliefs, family structures, economics and politics, and if it does not take into account the forces of inertia, resistance to change and the internal and external dynamisms that animate groups and communities.

It is therefore necessary to identify those aspects of crime that are directly or indirectly connected with the process of acculturation which the African societies are experiencing. At a second and more specific level of intepretation, the criminological analysis should focus on the public's reaction to crime.

The traditional and modern social reaction to crime

On the continent, more than anywhere else, the criminal phenomenon is so closely related to the public reaction to crime that it would be unthinkable to dissociate the study of criminality from that of the attitudes it elicits on the part of diverse groups. Further proof of this relationship is the fact that we find differences, sometimes even basic ones, between the institutionalized social reaction of the criminal justice system and the traditional response of the population towards acts considered deviant or delinquent. In pre-colonial African societies, the social controls of the group were exercised directly on its members and were effective in keeping antisocial acts to a minimum.

The common law justice sought first to redress the wrong and remove the feelings of hatred and revenge between the two families caused

by the infraction or crime. The opposing parties looked for a solution through equitable and rapid compromise - a solution whereby the victim was assured compensation. This reparation made it possible to reconcile the feuding families.

The new legal systems, based on the punishment of the guilty party, are disapproved of because the victim is barely considered during the trial. Of course the injured parties can demand damages and interest by suing for civil injury, but the fact is that convicted criminals are usually unable to give them satisfaction. Furthermore, the punishment of the guilty person, who most often has to serve a prison sentence, instead of appeasing the feelings of vengeance between the families, can make them more acute, for the parents of the guilty party are losing one of their members. In the villages, they can even be looked upon as victims, for the plaintiffs are apt to be rejected by the group for having "betrayed" and "sold" a member of the community. The fact that the traditional form of justice has survived is an indication of the widespread refusal to accept an imported justice system which seems foreign and inappropriate to a large portion of the population.

A comparative criminological approach

It would be a mistake to approach crime and the public reaction to deviance in Black Africa, and claim to understand and explain these, without studying them from a dynamic and historical point of view. The customs of the past, still surviving, affect the present; even though in many areas they are petering out, they have not yet disappeared. Obviously, the Africa of today is very different from that of a century ago,

before colonization. However, it seems wrong, or at least premature, to say - as Davidson does (1969) - that the ancient traditions are nothing but empty shells. For evidence to the contrary, we have only to refer to the statements of certain authors who point out:

- that the majority of Africans are farmers and that 80% to 90% continue to live as their ancestors did, ignorant of the law of the cities and the institutions set up by modern governments (David, 1973);
- that 80% of the inhabitants of the Congo know only the traditional law (Alliot, 1965);
- that the ancient juridic system is still partially or totally the only frame of reference for 80% of the population (Le Roy, 1971).

These assertions are true, in general, even though they must be tempered by the fact that some of the customs have been changed to a certain extent.

There are few records to help us follow the evolution of the criminal justice systems step by step, to compare the nature and number of offences in primitive communities with those in contemporary African societies, and make comparisons over time between the type and intensity of the reactions towards behaviour seen as a danger to the safety and stability of the community. Perhaps this lack of historical data, due to the absence of written documents, can be compensated by the survival of isolated places where the traditional culture has scarcely been touched by civilization. We find ourselves, still today, in the presence of two diametrically opposite and heterogeneous worlds; the one urban, which, at

least for the most part, lives or tries to live in the present; the other rural, which is trying to perpetuate an ancestral way of life.

Here, in observing crime and criminal justice, the scientist has the rare opportunity of having a diachronic view, for the inter-regional distances constitute a "space/time" element where a modern culture and an ancient one exist side by side, sometimes interdependently, sometimes in conflict. This being the case, it becomes evident that the coexistence of two stages of socio-economic development lends an unexpected clarity to scientific observation, and furnishes an ideal field for the analysis of delinquency and the methods of social control. Thus the lateral comparative study has, at the same time, the advantage of being longitudinal.

Crime and development

In many respects, colonization in Black Africa symbolized a sort of cataclysm, a cultural explosion, which, spreading inexorably, shook the primitive[1] evolutionary model to its roots, thus undermining and eroding the stability of the traditional societies. The arrival and domination of the white man created profound confusion among the blacks, who were troubled by the sudden discovery of the ascendancy of a different world, which, by the mere fact of its existence, showed them the extreme vulnerability of their own world. Like the frogs in Baoulé's story, the indigenous populations saw their destiny as a people and a civilization irrevocably changed:

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1. "primitive" is used here as a synonym for "traditional".

> "One day, some large wading birds chased by hunters took refuge in a marsh where the frogs offered them hospitality and assured them that they would never know death. But some time later, the birds, compelled by hunger, began to eat the frogs, and it is thus that they learned to know death (quoted by Savary, 1968).

The introduction of a monetary economy, the establishment of industry and the importing of a new technology were the chief elements that escaped from this Pandora's box, namely western civilization, and which caused radical changes. For these innovations to some extent gave rise to a lifting of the barriers of ethnic entities, a redefinition of social relationships and re-organization of the means of production and economic and commercial exchange. At the present time, development can only proceed by precipitating and accelerating the profound changes, already begun, in the structures and organization of the native communities. This process of social destructuration seems inevitable and irreversible, for the traditional institutions appear almost incapable of evolving and changing quickly enough to become adapted to the demands and requirements of modern life.

Economic and cultural development cannot, in themselves, be considered criminogenic. It is much more the type of development and the nature of its consequences that can be considered elements conducive to the increase of crime. History ordained that colonization was to be instrumental in bringing capitalist societies, highly industrialized and with an individualistic ideology, in contact with societies of a collective type, exclusively agricultural and without much technology. The result, for the

latter, was an erosion of their basic institutions, which exercised such control over the people that the possibility of delinquency was reduced to a minimum. With the structural changes, with the mingling of ethnic groups and heterogeneous peoples, and above all with urbanization, there is no denying that the criminal phenomenon increased tremendously.

Most authors agree that it is primarily the consequences of cultural development that are responsible for social pathologies (among them: Clinard and Abbott, 1973; Clifford, 1967, 1974; Balandier, 1971; Milner, 1969). In the African states, as in all countries, crime increases when family life is endangered, when groups and institutions increase, diversify and become more complex, when face to face relationships are less frequent, when the norms and laws gradually become void of their ethical and cultural content, when loyalty to relatives is replaced by allegiance to a diversity of interest groups (professional, economic, religious...), when social solidarity is lost in a structure where the sources of regulation and supervision are crushed, where relationships between individuals are depersonalized, and the anonymity of a mass society makes personal success more important than that of the community.

Modern criminal justice and traditional justice

In the light of modern living conditions, according to Milner (1969), many crimes, procedures and sanctions under the traditional laws certainly had to be abandoned, for they were too closely connected with the tribal cultures. This applied to rules and ethnic practices that discriminated against persons outside the tribe, to procedures, such as trial

by ordeal, which did not meet the international norms of justice, and punishments which could only be described as barbaric. The laws and procedures that were appropriate for settling conflicts in small, ethnocentric groups, where interpersonal relations were very close and the people were economically self-sufficient, were not suitable for contemporary societies oriented towards international relations. Whatever the intentions of the colonizing countries, the fact remains that few attempts were made to adjust the rules of law to the mentality of the populations they colonized or to preserve any elements of their penal philosophy. This helped create a rift between the juridic systems and the citizens.

As soon as African countries became independent, the native governments would set up criminal codes based on colonial legislation, and would accelerate the policy of establishing a modern system of justice by creating courts, increasing the police stations in the cities, and assuring the closest possible coverage of their national territory by installing detachments of constabulary throughout the country. Also, the criminal law in Africa is far from being the written expression of the values of an established social order. It is an instrument that is used for the very creation of this order. Its object is to change the traditions and customs. In this, it shows the will of an elite to impose norms on a majority considered not sufficiently evolved socially, and to oppose the many infinitely diverse customary laws. Almost everywhere, for all practical purposes, the traditional laws relating to crime were "outlawed". The result of this was an anomie due to the superimposing of a modern system of justice, often not understood by the citizens, on juridical/administrative structures, firmly integrated in the village communities long ago and still functioning secretly today.

Due to this ambiguous situation, in the rural areas, and to a lesser degree in the urban centres, the people persist to this day in resorting to their own justice to settle their legal disputes. Consequently, a great deal of the crime remains hidden from the agencies of modern justice. Faced with two conceptions of justice, the average citizen, when he can, will tend to be opportunistic. As Balandier (1971) points out:

> The multiplicity of laws, customs and courts give the individual, when settling differences, the opportunity of appealing either to the "traditional laws" or the new law that the city has established; the choice is made according to which offers the greatest advantage and the least risk. (p. 65)

The fact that certain categories of the population or some groups refuse to accept the law and the agencies of social defence, and resort to the ancient procedures of reconciliation, masks the nature, volume and manifestations of African crime. A better knowledge of the crime situation, its causes and consequences, can only be obtained, by all evidence, if account is taken of the overall socio-cultural context and the social reactions, official or unofficial, of the communities vis-à-vis deviant or criminal behaviour.

2. A polyvalent approach to the criminal reality and its control

Duvignaud (1973) reports that Freud, when his disciple, Gesà Roheim, informed him of Malinowski's report concerning the absence of an Oedipus complex among the Trobriands, spontaneously exclaimed: "Haben sie

dann kein Asch, diese Leute?" (They have no sex, these people?). This example clearly shows the marked difference between the thinking that characterizes a scientific approach of the anthropological type and that underlying the universalist approach to social phenomena.

Ever since cirminologists have begun to study crime in Africa, they have had the same reaction as Freud. They have worked hard to tone down the particularities and to show that the criminal phenomenon everywhere is the result of the same factors, that it is expressed in the same way and gives rise to identical reactions. As Clastres (1974) notes, ethnocentrism focuses on the differences in order to identify and finally abolish them. Anthropologists do not entirely escape this criticism. However, the fact that they work among ethnic groups has led them, little by little, and particularly in the past several decades, to recognize the right to differences among the people they study.

The criminologist is ill equipped to analyze deviance and criminal behaviour in the African countries. First of all, he generally limits his study to the modern system of criminal justice (because the latter is familiar to him) and he prefers to confine his research to the urban areas where the "true criminal behaviour" seems to be concentrated, that is to say, the kind of crime that most resembles that of the industrialized nations. Next, because of his training, he is much more inclined to adopt a macrosociological view which, contrary to the more microsociological approach of the ethnologist, generalizes the observations and ignores the specific characteristics of tribal groups.

For these reasons, the two approaches, anthropological and criminological, should be used as a complement to one another in the field of criminal law and its application in order to show the true evolution of crime and the social reaction it provokes in Black Africa. Unfortunately, so far, almost no study has attempted to make joint use of the two sciences, which combined should lead to the development of an ethno-criminology.

The need to resort to quantitative and qualitative methods in order to validate the analysis of the criminal phenomenon and the social reaction to crime in Africa.

As part of a programme of cooperation between the University of Abidjan and the International Centre For Comparative Criminology (I.C.C.C.) of the Université de Montréal, we spent about three years in the Ivory Coast, from September 1972 to August 1975. The aim of this programme, financed by the Canadian International Development Agency, was to established research and criminological courses at the Abidjan Criminological Institute[1].

At the instigation of Professor Denis Szabo, who directs the I.C.C.C., the Institute of Criminology, the only one of its kind in West Africa, adopted an international vocation from its very inception in 1971. To realize this "mission", each year from 1972 to 1975, it organized a

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1. We wish to thank Doctor Marcel Etté, Director of the Abidjan Institute of Criminology, most sincerely for the confidence he showed in allowing us complete freedom in the planning and realization of our scientific research.

meeting in Abidjan of representatives from Senegal, Niger, Nigeria, Upper Volta, the Cameroons, Zaire, Ghana, Togo, Gabon, Mali and Dahomey to exchange information and ideas.

The subjects discussed at these meetings were:

- "Needs and perspectives in the matter of crime prevention and the treatment of delinquents in West Africa" (I.C.C.C., 1972);
- "Crime committed, reported and recorded in West Africa (I.C.C.C., 1973);
- "Crime prevention and planning" (I.C.C.C., 1974);
- "Modern and traditional criminal justice in the Ivory Coast" (Unpublished report).

Another meeting, prepared jointly by the University of Lagos and the I.C.C.C., was held in January 1973 in the Nigerian capital. The subject of this seminar was "Criminal Law and the Law Courts", and the results were published by the University of Lagos Press (Adeyemi Ed., 1977).

Having actively participated in the material and scientific organization of the Abidjan seminars, we have had the chance of quickly becoming familiar, in a multinational perspective, with the main problems raised by the administration of justice in the African States.

For a man "who came out of the cold", contact with Africa was not only a cultural shock but also the occasion for some salutory thinking about the science of criminology itself and the application of its theories to a completely different socio-cultural milieu from that of the industrialized countries. It appeared to me, from the very beginning of my stay in the Ivory Coast, that the state system of justice "controlled"

only a fraction of the crime and that the customary judicial institutions, far from having disappeared, dealt with a large number of infractions.

This fact guided all our research. It led us to focus our study on the possible influence that the coexistence of two distinct courts for settling disputes could have on known crime. To find out, it became evident that both anthropological and criminological data had to be used. Our work, then, consisted in gathering all the information ethnologists had been able to obtain on the African customary laws, how they function and the procedures used, as well as the results of research done in Africa by criminologists.

What we wanted to do is what Max Weber called a "Utopian reconstruction" - that is, a reconstitution, based on a variety of sources of information, of the attitudes and reactions of the Africans to justice, in order to show that the establishment of modern systems of justice and their legitimacy, far from being an accomplished fact, were largely conditioned by geographical and cultural factors. Using the data furnished by these anthropological and criminological studies, we therefore proceeded with additional research and inquiries in the Ivory Coast based on the criminal statistics, the statements of students and bush country judges and the attitudes of the public.

A - <u>The criminal statistics</u>

On the basis of our theory that the infractions recorded by the police and the courts represented only what remained of those absorbed by the population, we did not consider them a true reflection of African

criminality.[1] They were analyzed more in terms of the location of the justice agencies, their drawing power, their accessibility and the role attributed them by the people themselves.

Thus instead of considering the statistics an indication of the criminality, its nature, scope and evolution, they were seen as the results of the contradictions evolving from the co-existence of the modern and traditional jurisdictions, and, in a way, an indication of acculturation.

B - The statements of students and bush country judges

Each of the five West African conferences in comparative criminology mentioned previously had between 40 and 60 participants. They furnished an occasion for meaningful contacts with magistrates, sociologists, legal experts, anthropologists and African civil servants, and fruitful exchanges wre made on the fundamental aspects of justice administration in Africa. The dichotomies "urban crime/rural crime" and "modern justice/ traditional justice" came up incessantly, like "leitmotifs", during the discussions. The results of these discussions having been published, we shall refer to them from time of time.

Besides the information acquired during these conferences, we obtained about forty statements on the survival of traditional justice

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1. It was thanks to the kind assitance of Messrs. N'Guessan Mao and N. Némin, Director of Civil and Criminal Affairs and Director of Penitentiary Administration respectively, that we were allowed access to the Court Records and Criminal Statistics of the Ivory Coast. We wish to thank them for having greatly facilitated our task by granting us access to all the documents necessary for a more thorough analysis of the statistics, region by region.

from students at the Abidjan Institute of Criminology. Coming from rural areas, for the most part, sometimes even from countries other than the Ivory Coast, these informants described the judicial system practiced in their ethnic group or village. Whenever we refer to these statements, we cite the names of our spokesmen.

Furthermore, in April 1975, a qualitative study was done of 7 of the 25 bush judges in the Ivory Coast. By means of unstructured and detailed interviews, and with the assistance of Serge Desrosiers (then a lecturer at the Institute of Criminology) we discussed with them the interaction existing between the modern law and customary laws in the judicial districts situated in the interior of the country. Since these interviews were confidential, we have given these magistrates fictitious initials.

C - Public attitudes towards crime and the social defence policies

In May 1974, a public survey was made among a representative sample of the Abidjan population. The object of this inquiry was:

- to evaluate the rate of victimization in the Ivory Coast capital, and then to estimate the volume of hidden crime;

- to analyze the attitudes of the Abidjan population towards the official crime policies;

- to measure the extent of the customary law's survival and the frequency of litigations referred to the traditional courts.

Our questionnaire, designed with the help of students from the Abidjan Institute of Criminology, contained 88 questions. It was pretested and the necessary changes made.

The final questionnaire was administered through personal interviews conducted by about ten African interviewers from the Ivory Coast Institute of Public Opinion[1]. A thousand persons, selected according to a sampling by quota, were interrogated. The choice of respondents was made on the basis of sex, age, ethnic group, income and neighbourhood. The sample used by the I.I.O.P. was based on the demographic estimations of the Ministry of Planning. In the absence of a recent census, it was considered to be representative of the African population of Abidjan. Among those interviewed, there were 500 Ivory Coast citizens and 500 who came from neighbouring countries. Of these, 748 were men and 252 women, all 18 years of age and over.

We have tried, in this work, to integrate the data obtained from major anthropological and criminological studies conducted in many African countries which were relevant to our objectives.

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1. The Ivory Coast Institute of Public Opinion (I.I.O.P.); Abidjan; B.P. 21.044.

Chapter II

Criminal Infractions in Traditional African Societies

> Pierre Poudyougo, a Dogon peasant: "The water is hard, the land is hard, the food is hard. That is why we are hard." (Lefèvre, C. 1972).

Because they are special social norms having a particular status, the rules of law are closely associated with the values, mores and objectives of communities which have their own personality, and this gives them a certain relativity. If we confine ourselves to the criminal law, it must be defined according to a social criterion, which is the only way to avoid falling into the trap of legalism or juridism which can only lead to a denial of the existence of law in societies without written regulations. From a sociological point of view, crime is a social fact, relative in time and space. We can define it, along with Fattah, as being: "a grave anti-social act (or omission) which causes a society enough anxiety to feel obliged to defend itself against the author of this behaviour through special measures intended for the protection of society and the resocialization of the guilty party" (1971, p. 101).

Analyzing the infractions from the criminological point of view, it is necessary to use a typology which, although arbitrary, will serve as a useful instrument for arranging in series and in sectors the diverse types of crime according to the nature and object of the infractions. We have examined crimes and offences in traditional, pre-colonial and contemporary societies, having first arranged them in separate categories: 1) crime of sorcery, 2) infractions against the authorities, 3) against life and physical integrity, 4) against morality, 5) against patrimony.

Crime of sorcery

One might say that the African has no religion, he lives it. Anything that is "out of the ordinary", all that escapes normal vision and his understanding of things and beings belongs to the sacred world, the "mana", or more precisely, the "numina". This term, used by the philosopher Otto and taken up later by Cazeneuve (1957), covers the realm of the "mysterious" in its totality, that is, the incomprehensible, beyond what is human, whether mystic and religious forces or demoniacal or magic powers. "Numina", like Janus, is in a way "two-faced": it has a diurnal face, that of good, of religion, which uplifts man's condition by rendering it sacred, and a nocturnal visage, that of evil, of sorcery, which is a manipulation of supernatural forces in order to transcend the human condition and dominate the natural world and its laws.

Through religion, the society sets apart principles of a supreme order which go beyond the human and protect him by their sacred ascendancy and participation in earthly matters. The religious feeling of a community serves to stress and preserve the values accepted by the majority and established by the deep roots which give them their mythical interpretations. The supernatural quality of the religious order is maintained through numerous tabus restricting its profanation.

In this regard, Schwartz (1971) states that, among the Guéré of the Ivory Coast, the tabus constitute a group of regulations that the tribe is required to observe if it wants to continue living in security and prosperity. Certain tabus may be established by the clan (forbidding

the eating of sacred animals), the village (restriction against pounding food in the village or bringing the head of a gazelle into it) or the tribe (forbidding crying at night). These examples are proper to the Guéré and pertain to their history, to certain events or customs, but similar tabus exist in all African ethnic groups.

The tabu is different from other prohibitions in that it is unmotivated: what makes it obligatory is not the intervention of a third party, nor is the danger it portends apparent. Among the Ashanti, of the Mampon district (Rattray, 1929: see Hoebel, 1968), if a dog runs in the village, if someone whistles, or breaks an egg on the earth, retaliation by the spirits was expected, and in order to avert it, a sacrifice had to be made. Violation of these tabus was even subject to the death penalty.

Cazeneuve points out the social importance of the tabu by noting that its transgression usually brought misfortune; and the moment misfortune struck an effort was made to find the offence of this kind that could have brought it about. Often there was no way of knowing, but there was the feeling that since the rules had been broken by something that went counter to them, the world had become totally unpredictable. The entire social group felt it was affected by this offence. Public indignation was aroused against the person who violated the tabu, even though he or his kin were often the only ones directly threatened with punishment. Sacrifices and purification rites were made in order to erase the defilement and to remove any fear of danger.

If the violation of a tabu, which is an omission, a nonobservance of a rule, threatens the necessary harmony between the natural and the supernatural, magic, which transcends the rule, in the sense that it places man above the laws and has the power to defy the order of things, represents the participation of the invisible in the world which is endagering the existence of the community.

Sorcery is considered one of the worst crimes, precisely because, in essence, it is at variance with the established order of things. It is deviance, therefore a source of anxiety, insecurity, uncertainty, and danger. All phenomena, all events, all conduct that differs from the expected and the collective norms becomes suspect. Gluckman (1963) tells us that, among the Bemba, to find a beehive is lucky, to find two is very lucky, to find three is sorcery.

Persons who are conspicuous socially for their success, their fortune, achievements or power, or individually for their physical characteristics (deformed, dwarfs, feeble-minded, twins) or again because of their character traits (anger, jealousy, envy, aggression, timidity, taciturnity, difficult interpersonal relationships, antisocial tendencies) are subject to suspicion and at the slightest alarm tend to serve as scapegoats and be branded as sorcerers. As Cazeneuve (1971) says, any man who physically, psychically or by his social situation differs from the normal is doomed to be taken for a sorcerer or designated to actually play this role.

For Schwartz (1971), sorcery, which unquestionably and inevitably introduces a climate of suspicion, if not fear, into the relationships

between people, plays a levelling role in society by preventing the rich from acquiring too much of the wealth, the elderly from monopolizing too many wives, the person in authority from abusing his powers, etc. It seems certain that sorcery, as the archetype of Evil, that is, (seen from a social point of view), as an attack against the collective conscience and therefore capable of destroying the unity of the group, is seen as an instrument of social control. Davidson (1969) sees it as the safeguard of the natural balance of divine origin in an egalitarian or almost egalitarian community. As for their functional aspect, these magic beliefs become the protectors of all that is "good and natural"; they guarantee the conservation of the community by polarizing the attention of its members against anything that may cause social upheaval. In the extreme, any deviance can be understood as a sign of magic practice and incur an extremely violent social reaction.

Marwick (1965), who stayed for long periods among the Chewa of Northern Rhodesia between 1946 and 1953, did a thorough study of 194 cases of misfortune that occurred. They ranged from a loss of goods to domestic problems, and from sickness to death. He found that in 83 cases, the persons themselves had been at fault according to the Chewa social norms, and in 24 others, someone close to the victim, a relative or friend, had been the cause. Of the 107 cases having moral implications, 71 used magic whereas 66 did not. Of the 71 cases for which the misfortune was attributed to sorcery (or to magic, in the broad sense), 16 were because of an omission of personal obligations, 12 too marked success, 9 a propensity to anger or aggression, 7 sexual deviancy or jealousy and 5 meanness and

avarice. He concluded that in general magic beliefs were a means of dramatizing the social norms. When a person is the victim of sorcery, it is either because he has erred by contravening the rules, or because, although innocent, he has drawn upon himself the evil spell of someone who had sinned.

The person causing the evil spell, the sorcerer or sorceress, is often unaware of his diabolical power. It is believed that, while sleeping, the soul leaves the body and can commit all sorts of crimes, in particular, devouring other souls it meets. The best alibi in the world, notes Binet (1965) justifies no one. The body of the sleeping person can well have been seen stretched out on his mat; this does not prove that his spirit, his double, was sleeping too.

Among the Alladian of the Ivory Coast, studied by Augé (1969), this power is acquired either at birth, through contamination or by apprenticeship. The author analyzed nearly two hundred confessions obtained from sorcerers at Bregbo. In these confessions, the sorcerers admitted being responsible for a great deal of damage and many misdeeds: destruction of crops and fisheries (by changing into animals or fish), death (by killing while a "spirit", from a distance and unarmed), illness (by casting an evil spell, hoodoo) sterility (by selling the womb of a young wife), financial ruin (by piercing the hand of a person so that money falling into it will immediately disappear). One villager says in his confession:

> (...) I started this work in my mother's womb (to kill men with a diabolic gun and smoke their flesh in a curing house of the same nature).

> From the minute she conceived me, I demoniacally left her womb to go and eat. When I was finished, I came back. This system continued till the day I was born (Augé, 1969, pp. 189-190).

Schwartz (1971) cites a similar case, that of G.T., a celebrity among the Guéré of the Ivory Coast. Exposed by the colonial administration on the eve of World War II, she was condemned to 30 years in solitary confinement, then pardoned in 1945:

> When her mother was about ready to give birth, she noticed with amazement that the child disappeared on certain nights from her womb. She told her husband about it and he advised her, when it happened again, to change huts. In the morning the child was found in front of its mother's hut lying in a drum (p. 162).

When sickness, death or any misfortune occurs, public opinion is aroused and the author of the evil deed must be exposed. Sometimes the latter is known because he had directly threatened his future victim. When a person is or has already been identified by the group as a sorcerer, or openly throws an evil spell on someone to bring him poverty, disgrace or misfortune, the fear it engenders may be sufficiently strong for the threat to be fulfilled. This, then, is a case of self-fulfilling prophecy. The eminent physiologist Walter Cannon (1942), through his observations, confirmed the fact of several causes of hoodoo death where persons, in good health, suddenly died a day or two after they were told they were under an evil spell. The death was due to a completely understandable reaction of physiological stress, comparable to a "surgical shock", activated by the belief of the individual and the society to which he belongs in the

existence of magic power. The evil spell can cause sickness, a loss of appetite and a refusal to live. Psychologists and psychiatrists are familiar with this psychosomatic process where the mental state of the subject influences his physical state.

The prediction of disaster, because of the anxiety it engenders, can also lead someone to commit suicide. Whyte (1974) reports the case of the trial of Niwaoke, in Nigeria, who was accused of having caused the death of a person by pointing at her with a juju. The case is interesting because it shows the consequences of a culture conflict in the area of law and court judgments. In 1938, the accused was found guilty by the Supreme Court of the murder of his victim who had committed suicide because he had caused her death by involing a fetish: "... since you refuse to pay me my money, this juju will kill you; since you refuse to pay me you shall no more eat or drink!". Six days later, the debtor's body was found hanging from a tree. The judge of the court of first instance upheld the accusation of murder referring to the culture of the man's ethnic group and recognizing that "to the native mind juju may constitute a well-founded fear of serious harm and even of death, if not immediate, yet inevitable and irresistible". This argument was evidently rejected by the English legal experts of the West African Court of Appeal who, with good Western logic, found that "there is no evidence whatever that the invoking of this juju, to the knowledge of the accused at the time he invoked it, would be reasonably likely to cause the deceased to take her own life...".

Having the power of life and death over his fellows, the sorcerer is a serious danger to a society. In his study on crime in the Ivory

Coast, Hassenfratz (1974) examined all the files of cases judged by the Assize Court as well as the judgments passed by the Abidjan Appeal Court from 1949 to 1973. There he found 26 serious cases of sorcery. Seven of these concerned cases in foreign countries - Upper Volta, Togo, and Dahomey - the Abidjan Court of Appeal having jurisdiction in these territories before their independence. The following are some typical examples that serve to illustrate the gravity of the threat that the sorcerer represents and the nature of the peoples' reaction.

1. Togo, 1952. A. was suffering from sexual impotency for several months and was trying to find out the cause. Upon consulting a charlatan, the latter told him that a sorcerer was responsible for his infirmity. Suspicion fell on his paternal aunt. She was tortured by several of the villagers until she admitted being a sorceress and denounced her sister as an accomplice. The latter, who was beaten in turn, died as a result of her injuries.

2. The Ivory Coast. During 1953, A. killed his friend D. on the grounds that, without his knowledge, the latter had thrown a magic powder into the water in which he washed; it had the effect of making him seek sexual relations with animals.

3. Dahomey, 1953. Furious with a relative who was unable to lend him money, A. called down curses on M's family and his home, predicting the destruction of his house. It was judged necessary to proceed with a ceremony of exorcism, but it did not take place because M. did not have

the means to finance it. Subsequently, three children of the threatened family died. M's wife, after the last death, took a knife to A. who fell down, dead.

4. The Ivory Coast, 1962. MD, aged 35, was small, deformed and, in addition, simple-minded. Her two brothers, D. and M. suspected her of having their two other brothers, seven and twelve years old, die by sorcery. A seer confirmed their suspicions and also denounced another woman as accomplice. The two women confessed. They were beaten and promised to leave the villagers in peace; the latter were reassured. Several months later, MD., having resumed her evil practices, was killed by one of her brothers.

5. The Ivory Coast, 1968. K. had given birth to 7 children, only one of whom survived. Every time a child died, her neighbour told her that she was the cause of her mourning. Upon the death of the sixth baby, the mother killed her rival by striking her with a piece of wood.

The court records which Hassenfratz presents form a mosaic that well illustrates the climate of uncertainty created by sorcery in a village; a climate that leads the inhabitants to fear being the victims of sorcerers as well as being taken for sorcerers themselves. As the author notes, this makes them adopt a very studied attitude: they must beware of any emotion, any deviation, in order as far as possible to prevent their double from escaping and being the prey of evil spirits. They must also maintain a reserved manner, and avoid any pecularities in order to not give free rein to slander or arouse suspicions that could provoke an accusation.

In traditional societies, sorcery was a living threat to the community. While modern justice denied the "objective" existence of sorcery, it did not eliminate it. Muller (1972) questioned the Chiefs of the Rukuba tribe north of Nigeria as to which aspects of the English law were least acceptable to their ethnic group. The restriction they felt caused the greatest reservation was the prohibition of sorcery. Resentment against this law lasted almost 30 years. From the beginning of the 30s, invasions of locusts were attributed to sorcerers who, deprived of their impunity, were taking every opportunity to harass their fellow citizens. "Today, it is said either that there are no more sorcerers or that those who remain are not to be compared with their predecessors; but unofficially they are ostracized whereas they were previously sold as slaves or mutilated. The fact remains that the belief, although much less prevalent, still persists even among many members of the educated class; but these kind of beliefs are just as common in our own society". (Muller, 1972, p. 372).

It would be wrong to think that sorcery is a phenomenon that is now being revived. Its survival everywhere is evident to this day. In January 1968, for example, President Kenyatta earnestly asked a crowd of 40,000 Kenyans to abandon sorcery. (The Times, January 17, 1968). At about the same time, in Rhodesia, fifteen Africans were imprisoned for cannibalism, having been found guilty of eating the corpse of a baby which they had disinterred. In their statements to the police, the accused confessed that they were sorcerers and this was the food they ate (The Times, January 19, 1968). Most observers (Paulme, 1962; Le Vine et al., 1963;

Binet, 1965; Poirier, 1969; Davidson, 1969; Balandier, 1971) seem to agree that, since the decolonization, there has been a revival of both sorcery and beneficent magic and also that the fear of magic is less controlled by social restraint and other protective mechanisms than it was previously.

During the confrontations at Katanga, in Zaire, in April 1977, some rebels were captured. Two of them were exhibited to the crowd. A description of them appeared in "l'Express (no. 1346, April 25 - May 1st 1977):

> Two poor wretches with stunted, puny bodies... Pathetic heroes, sorry remains: four Portuguese rifles with barrels decorated with juju to conjure up an evil spell!

The disintegration of the traditional structures and systems has caused the African to feel more and more alienated and fearful; seeking some form of security, he resorts to protective charms, amulets and talismans. His ancient beliefs shaken, he has developed an anxiety that tends to be concretized on the person of the sorcerer. Early in 1974, we were witness to a rumour that was spreading throughout Nigeria and the Ivory Coast that there were individuals (Nigerians) who rendered men powerless by shaking their hand. In Abidjan, and especially in the neighbourhood of Treicheville, fear reached a veritable panic, and for several weeks, men and women dared not shake hands and a great feeling of distrust developed toward strangers and foreigners.

Recently, in Abidjan, a case created a great deal of talk when it was discovered by the police. This was the case of the so-called "snake-child", an infanticide that occurred on April 3rd, 1975. A baby boy of 18

months was drowned with his parents' consent because the native priests had said the child, unable to walk, was not a human but a serpent, an evil being, capable of eating souls, and that they must get rid of him. A medicine-man threw him into the lagoon saying:

> "You, black dragon, you came to do harm to your parents; if you are a man stand up and come to them, if you are a serpent return to your home in the water" (Fraternité-Matin, April 18, 1975).

With the social upheavals inevitably caused by urban and industrial development, the belief in sorcery, far from having disappeared, is becoming stronger, for the foundations of the ancient social structure are being destroyed. Where the new way of life is contrary to custom and to law, it affects the uniformity established by the ancestors. Any deviation from the law or from custom is bound to have inauspicious results and, inversely, any evil that occurs is the consequence of not having obeyed the customs.

During a survey done in Abidjan in April 1974, 32.6% of the persons interrogated said they were in favour of the death penalty for crimes of sorcery. On the other hand, in the case of adultery, 62.6% replied that, in a village, if a deceived husband killed his wife's lover through the use of sorcery, the case should be settled amicably or according to custom; if he killed him by poisoning, 81.3% felt he should be judged according to modern law. The belief in magic and sorcery is an integral element of the public reaction to crime and deviance in Africa, and plays a considerable role, often ignored by criminologists, in the criminal

reality. This is one of the numerous explanations for the extent of the black number, or hidden crime, in the African states.

Infractions against public authority

Traditional African societies are both fragmented and structured, some more, some less. There are differences, therefore, in the forms, institutions, and even in decisional levels between communities with no government and those that have a pyramidic political hierarchy.

Where there is no specific system for imposing moral order, it is the Elders who, indirectly or directly, force the community to obey the rules. For example, the Karimojong of Uganda think that respect and obedience to the Elders is best for the community because they bring peace and prosperity, whereas irreverence and insubordination bring punishment and suffering, either individually or collectivity. They believe that to offend the Elders can result in curses and sanctions, such as sterility in the women and cattle, the loss of crops and premature death (Dyson-Hudson, 1966). There is therefore much to be gained by living according to the customs and obeying and respecting the aged.

In more complex societies, where the power is a more specific attribute (tribes, kingdoms, empires) belonging to certain categories of individuals or groups (the eldest or chief of the oldest clan; the chief elected from among the important men of a tribe; the hereditary or proclaimed king...), the authority is almost always of a religious nature, the chief or king being a representative or a reincarnation of ancestors.

He possesses both spiritual and secular powers. He is the indispensable link between the dead and the living. This is particularly visible in hieratic monarchies.

In East Africa, in certain kingdoms, the king was closely identified with the prosperity of his people, to the extent that if his strength declined, it was believed that the whole country was weakened. He was considered the master over the life and goods of each of his subjects. This concept is found among the Masai, where the king is a living ancestor who can persuade the ancestral spirits to give their strength to the people. The king is responsible for the rain and for the fertility of the people and the earth.

Among the Hausa and Yoruba, the king was killed ritually before he became too old. This was to prevent senility and illness from affecting the lives of man and beast. These examples, drawn from the work of Baumann and Westermann (1967) show that the well-being of the living rests on fidelity and obligations to the dead. Kings were strong and powerful only to the extent that they preserved the ideal harmony of the traditional social system.

In certain kingdoms, the death of the king was seen as a breaking of the social order. During the interregnum, all the rules were suspended and the population lived in savage anarchy. Among the Mossi of Upper Volta and the Gonja of Northern Ghana, in the kingdom of Dahomey, the market places were sacked and pillaged, the king's wives killed one another and the subjects could commit any sort of crime with impunity. Peace and order were only restored with the crowning of a new king.

> Among the Attié, where I live, on the death of the king, all the captives were killed. I do not know if this is still done. Perhaps it is done in a more underhanded way.[1]

Offences against public authority, whether official or unofficial, were akin to transgressions of a religious nature, and as such, could, just like sorcery, have a serious affect on the security and life of the group. Also using the name of the king in vain, instigating rebellion or war, treason, insubordination, desertion during combat, attacks against the authority of the chief, lèse-majesté, and lack of respect for the Elders was met with lively social condemnation. In the Madagascan kingdom, for example, under the reign of Queen Ranavalona III, in 1881, the following crimes were punishable by death:

1. To cast or use a spell to kill the sovereign.
2. Urge the people to revolt.
3. To be an accomplice with rebels to bring about a revolt.
4. To encourage the people to rebel.
5. To incite the intelligent and lead the foolish to rebel.
6. Proclaim another sovereign in order to cause a revolt.
7. Denigrate the government in order the cause a revolt.
8. Scale the walls of the palace with the object of revolt.
9. Wear or make short assagai (javelins) with a view to rebellion.
10. To agree to rebel for money and riches.
11. Homicide (Thebault, 1960).

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1. Evidence given by Y.P., bush judge, Ivory Coast, 1975.

Almost everywhere in Black Africa, anyone who provoked a war was often subject to the death penalty, and treason or desertion was sanctioned by corporal punishment or banishment. The prohibitions and taboos protected the person of the chief or king and their violation could either bring misfortune on the guilty person or his family (bad luck, illness, death) or result in direct public reaction, that is, a trial.

North East of the Congo, among the Zande, insubordination covered all forms of refusal to obey the political authorities. Vanderlinden (1969), upon studying their customary law, stated that the refusal to obey was subject to punishment at all levels of the hierarchy of authority. Any individual who did not obey the directives of his superior was punished. The sanctions, however, took into account the need of the chief not to alienate his subjects by ruthless repression. Thus the punishments could run from a mere fine to the death sentence for the most serious cases.

The hieratic nature of the public authority, that is, of the chiefs and Elders, explains the conflicts that colonization caused by destroying the ancient kingdoms, establishing a parallel political hierarchy and relegating the traditional authorities to second place. It also explains the gap created by education, for it gave the youth a new knowledge which, being opposed to that of the Elders, undermined the gerontocratic system. The large rural exodus occurring in the African countries today is partly the result of a revolt of the youth against the sometimes despotic authority of their elders, and perhaps too a fear that misfortune could befall them following a refusal to submit to the customary rules and authorities.

Crimes against life and bodily integrity

It is interesting to note that the first study in comparative criminology dealing with homicide and suicide in Africa was done under the direction of an anthropologist, Paul Bohannan. It was by mere chance that he became interested in this typically criminological problem. As he himself tells it, this idea came to him in 1950 when he noticed, in an administration office in the Province of Bénin, Nigeria, a file labeled "Rex vs Wannongo. Murder". It was dated 1932. Leafing through it, he was struck by the fact that the record contained ethnographic information of great value. He went to work and found, for the Tiv tribe, 122 official investigations on homicides. In 1955, during a meeting organized by the East African Institute of Social Research of Uganda, he presented a paper on homicide among the Tiv; the paper was based on data gathered from the court records and on the evidence of members of the population.

His procedure, which was based on both official documents and the reactions and interpretations of the persons concerned, interested a number of his colleagues and it was thus decided to undertake a study of homicide and suicide in various rural tribes. The choice of those to be studied was made by the anthropologists who joined Bohannan and who had worked with other tribes. Each one analyzed the material relating to a people he knew from having worked among them. Four of the groups studied were situated in Uganda: the Busoga (L.A. Fallers and M.C. Fallers), the Gisu (Jean La Fontaine), the Bunyoro (J.H. Beattie) and the Alur (A.W. Southall); two in Kenya: the Kavirondo (P. Bohannan) and the Joluo (G.M.

Wilson), and one in Nigeria: the Tiv (P. Bohannan). The seven monographs make up their collective work, "African Homicide and Suicide", edited by Bohannan (1960).

This was a very important undertaking, for it marked the first joint anthropological and criminological approach to crime in the African States. The authors studied 560 cases of homicide and 329 cases of suicide, extending over a period varying from 10 to 15 years (except for the Busoga where it was for a shorter period), in an attempt to understand these acts of violence in terms of the norms and values proper to each ethnic group. This made it possible to establish the extent to which criminogenic situations and the motives for traditional homicide and suicide still continue to exist. Furthermore, the researchers place their findings in a comparative criminological perspective, in a true attempt to conciliate the two scientific approaches.

In primitive societies, attacks against the person, especially when they cause death, are obviously - as in every community - acts that have very grave consequences. What is different, and this is still valid today for rural and even urban groups, is the definition of the infraction and the type of public reaction. Most of the time, for fighting and brawling, for bodily injury, inflicted intentionally or not, there are legal procedures, more or less official, which, to prevent the conflict from spreading, lead to compensation of the victim or his family by the guilty person or his relatives.

For this reason, we will concentrate on cases of homicide because, through them, it is easier to understand African cultural characteristics, since - to use the expression of Llewellyn and Hoebel (1941) - they are "trouble cases". They therefore enable us to approach the dynamics of the social norms and general censure in the most sensitive area of community life.

It would be pointless to go into the various categories of homicide and to establish a distinction between legal murder and criminal murder. This would lead us far afield, for to establish such a typology would involve cultural factors, which vary from one ethnic group to another, nuances concerning intent and guilt, as well as the problem of anomie following the governments' adoption of penal codes criminalizing acts considered by certain social categories to be non-criminal. These questions will be brought up later. For the moment, it would seem preferable to keep to the general definition of homicide: the fact of killing a human being. By taking such a broad point of departure, it is easier to make a survey of all forms of homicide and discover their social and individual motivation, as well as relating them to both the modern and traditional legal systems.

A. Homicide motivated by sorcery

Many African people do not believe in natural death. The death of a person demographically weakens the group. The void thus created profoundly upsets the inter-personal relationships within the lineage as well as the bonds between the members of the clan. Schwartz (1971) says that

among the Guéré, apart from the death of very young children, old people or persons with incurable diseases, the natural cause of which is recognized (as in the case of leprosy and syphilis), all deaths are considered suspect.

When a person dies, one must look for the cause. The dead person may be responsible for his own fate, due to the violation of a rule or tabu, or he may be the victim of an evil spell due to sorcery. The questions the bereaved families ask themselves are not those that would come to our minds under similar circumstances: what disease did he die of? Was it his carelessness that made him victim of an accident? In seeking the source of death, according to Davidson (1969), Africans ask themselves, what evil did he do? With whom did he have an argument? Who was jealous of him? In short, who killed him?

Evants-Pritchard (1937) shows how the belief in mystical agents, and chiefly sorcerers, acts as a theory of causality. Every time some misfortune occurs, the question arises: how did it happen? Why did it happen? If, for example, says the author, an elephant charges and crushes a hunter, the Azande sees how he was killed. He knows that it was the size and weight of the animal tha crushed the hunter. But he also wants to know why this elephant and not another killed this particular man rather than another, and on this occasion. His answer will be that an evil sorcerer guided this elephant so that it would kill this hunter, in this place and on this occasion. He understands the "how" of the misfortune, but not the "why", and to explain this specific misfortune he resorts to the belief in a maleficent source within the group: the sorcerer.

A recent example, furnished by Whyte (1974), illustrates an accumulation of facts which, when compiled, become a proof of sorcery...

> Appellant (Nomeh) admitted killing his wife but deposed that his wife had put some of her menstural flow into his food, and had also when they quarrelled turned her back on him and contemptuously exposed her bare buttocks to him. In addition he said that his wife falsely accused him of pulling out some of her pubic hairs. In his statement to the police he also said that his wife had killed two of his children by poisoning (State vs Nomeh, SC. 469/65).

For A.G. Karibi Whyte, who is director of law reform and research at the Department of Justice at Port Harcourt, Nigeria, there is no doubt that the Supreme Court should have taken the cultural context into consideration before convicting the accused of murder. He writes:

> All the above facts indicate to the native mind a consistent pattern of practice of witchcraft by the wife. To hold that these factors are not sufficient to establish the defence of provocation is to ignore the basis for moral culpability at customary law (1974, p. 11).

By working in the field, anthropologists are in a position to analyze the attitudes of the population and give a social dimension to a criminal case. Customary law and procedures having been abolished, trials for sorcery have been illegal for several years. When an execution comes to the knowledge of the police or the constabulary, they will search for the "executioner" and make him responsible for an act that is a collective responsibility.

In doing this, modern justice penalizes behaviour that is not disapproved of, but, on the contrary, is approved of by the community. Furthermore, by identifying one or several guilty persons (those directly involved in killing the sorcerer), it individualizes an act that is the outcome of a complex social dynamism.

The examples given above, and which were taken from the records of the Abidjan Court of Assizes, give the impression that in all the cases there was animosity between only the murderer and his victim (the sorcerer). Thus, on going through the courts, what was actually an act of self-defence on the part of a group was gradually stripped of its cultural content to become reinterpreted as a strictly personal act of aggression. The fears, pressures and decisions of the community are played down and disappear. For the villagers, the judges' conviction of those who rid them of a being they consider evil and dangerous is incomprehensible. It can only discredit this "new law" in their eyes, for it does not take their beliefs and their values into consideration.

B. Murder of thieves

Besides sorcery, the brutal elimination of thieves is another case of legal homicide characteristic of traditional societies. A thief, caught in the act, could be beaten up then and there with impunity by whoever discovered him. Most often, it was crops, food and poultry that were stolen. Bohannan cites the case of a husband who, accused of having killed a man who had stolen yams from his wife, answered the judge: "I was following an old custom that if a man caught a thief he should kill

him. If I did wrong, then kill me, but first pay for my wife's yams" (1960, p. 37-38).

For Uganda, in 1964, of the 862 homicides reported to the police, and for which the motivation was known, 215 of these, according to the figures obtained by Tanner (1970), included cases where the victims were burglars (72), thieves caught in the act (49), persons suspected of stealing (24), persons found in possession of stolen articles (19), bicycle thieves (18), cattle thieves (18) and persons attempting theft (15). This represents 24.98% of the homicides. This violent reaction of the population to theft has its origin in traditional norms and explains the extremely severe sentences given in the courts for any type of infraction against private property.

It is not only in the villages that thieves are the object of social vindication. In Abidjan, this type of public reaction is fairly frequent even today, although it is never mentioned officially. Hassenfratz states that:

> Every month, mutilated bodies are fished out of the Ebrié lagoon. Their identification, by means of fingerprints, establishes the fact that most of them are known to the police. They are thieves who have been massacred by their victims and thrown in the lagoon. Three or four persons a month meet this sad fate. Some weeks, as many as four bodies have been found... (1974, p. 423).

The Director of the Criminal Investigation Police told us that, particularly in the Marcory district, the bodies of thieves have been found who were killed by an injection of nitric acid in their intestines

in order not to leave any trace. In 1974, this procedure seems to have been used more and more in Abidjan. It was perhaps with a view to stopping this popular form of justice that, on December 20, 1974, the local journal reported a summary execution under the title "Savage Justice in Yopougon":

Wednesday morning. Yopougon-Sicogi, 8 A.M. An empty lot. A sickening, horrifying scene. A large mob already gathered together, emanating an atmosphere of embarassment broken by moments of murmering and whispering. On a mound of earth, the colour of clay, lay a man, about 27 years old, his head smashed to pieces, his body naked and bloody. It was one of those numerous spectacles that make you hair stand on end, that give you goose flesh, unless you have a heart of stone. In all, a sombre history of a theft that failed, of a gratuitous sentence at the cost of human life. From the information gathered at the scene, it came out that this dead man, anonymous after all, savagely mutilated, was a thief who the night before had entered one of the SICOGI apartments of the said neighbourhood. This happened around 2 A.M.

He was unfortunate. For his "hosts" who were not asleep started a veritable manhunt, aided by some neighbours, before stopping him and beating him to death. But these lovers of justice, who are they? A real mystery! It seems that they lacked the courage to take full responsibility and answer to the competent authorities. These authors, however, "were convinced of their perfect right".

Whatever the case, it is not our intention to defend a thief. But has anyone the right to take his life? (Fraternité-Matin, December 20, 1974).

The reply to this question by the majority of the people of Abidjan would, without any doubt, be unequivocal! Eight months previously, during a public opinion survey, they had given their answer. Of a sample of 1,000 persons, 76.8% had been in favour of the death penalty for persons guilty of armed robbery, and 52.4% for theft with violence.

At Kampala, in Uganda, the citizens set up their own police force which they call the "999 Operation Groups". Almost every day a thief is beaten to death. Mushanga (1974) states that this is not solely the case in the Ungandan capital; this self-defence movement on the part of the population is to be found all over.

C. Homicides motivated by adultery

Marriage, the pivotal institution of socio-economic life, was more like a contract between two lineages than an association, for the wife, in marrying, left her family and her loss had to be compensated by a dowry. The price paid enabled the family of the fiancée to procure a wife from another clan or family for one of its own male members to replace the one who had left the home. It is a mistake to look upon the dowry as the purchase price of a bride. It is more a means of insuring an exchange of wives than of acquiring money.

> We have noted that the dowry has a basic origin. It was originally meant to compensate

> the family of the woman for the loss of her work contribution when she left the home. This system replaces the exchange of daughters at a time when the existence of a surplus of crops made it possible to offer compensation in kind (Gonidec, 1968, pp. 11-12).

The gravity of adultery is mainly due to these considerations, for by her infidelity, the wife has violated the contract binding two clans. Moreover, the lover, by his act, has run the risk of sowing discord between his own family, that of the deceived husband and that of his adulterous wife. The consequences, where exchanges and mutual obligations were concerned, could therefore be extremely serious because they extended way beyond the couple themselves to affect much of the community. In addition, the husband in such cases was publicly scoffed at and humiliated, and this called for a vendetta to save his honour and that of his kinfolk.

Murderers motivated by adultery, espcially if they arrived unexpectedly on the scene, were not considered criminals. Sometimes the death penalty was delayed until the facts had been proven before the customary courts. Among the Baganda (Uganda) a man guilty of adultery was usually executed immediately. However, his life could be spared if he gave the outraged husband the price of two wives. If he was unable to pay, he was maimed by having a limb cut off or one of his eyes put out. Nkambo (1969) tells us that if the name of the seducer was not known, the wife was tortured until she had denouced her accomplice. If the person named denied it, his mistress had to furnish proof of his guilt by describing certain marks (scars, physical peculiarities) by which he could be identified. This being verified, the guilty man was either sentenced to pay the compensation or be put to death.

D. Other cases of typically traditional homicide

So far, we have separately studied three types of homicide whose motivation (sorcery, theft and adultery) gave their authors immunity because, according to the customary rules, they were not defined as crimes. The legislation passed by the colonial powers criminalized these acts. Their survival, proven by the files examined by the anthropologists, should cause criminologists to be very skeptical of the police and judicial statistics. First, because the motivations that traditionally exonerated the aggressors are misrepresented by the criminal justice system as criminal intentions, which automatically convicts them, and secondly, because this interpretation (considered unjust by the natives) discourages the population (especially in the rural areas) from resorting to the modern justice; this contributes to considerably increase the number of hidden crimes in Africa.

In addition to these homicides, culturally accepted by the native peoples still living according to custom, there are others - less frequent - which seldom come to the knowledge of the police. These are ritual crimes and the taboo murders of children.

Infanticide was standard practice in the case of certain infants. Muller (1972) has recorded that the Rukuba, in Nigeria, found it hard to understand why the English prohibited their killing the second born child on the birth of twins. They believed it absolutely necessary to do away with it for they considered it an evil spirit that would follow and torment the first born all through life. The same belief exists in many

ethnic groups. In the Ivory Coast, among the Attié, the Abouré and the Agni, the ninth child was automatically killed because he brought bad luck. Among the Baoulé, it was the tenth child, and in certain sub-groups of this clan (in the Toumodi region) the third child, if a boy born after two girls, was called "kindock" and was killed. Children who were deformed or showed certain abnormalities met the same fate:

> In the region of Aboisso, infanticide of the tenth child is still well-entrenched. I had a case of a woman pregnant with her tenth child. She asked a friend who had no children to go with her to Abidjan where she was to give birth. In return, she promised to give her the child, which was taboo for her. This she did. Her friend returned to the village nine months later with the child, saying it was her own. However, the husband of the real mother discovered that his wife had given birth to a tenth child and had given it away. Shortly after the child died, probably poisoned in order to avoid misfortune. A preliminary investigation was opened by the court concerning this case in 1968. There has been no follow-up of the inquiry since.[1]

Hassenfratz (1974) finds six cases of infanticide in the records of the Abidjan Court of Assizes: one in Dahomey (1954) of an eight month-old girl whose upper teeth grew in before her lower teeth, one in Upper Volta (1957) concerning twins, and four in the Ivory Coast. Of these, three were "serpent-children" (1954), (1962) and (1968), and the last a boy born with three teeth (1962). Infanticides committed at birth are

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1. Evidence given by Y.P., judge in the rural district of the Ivory Coast, 1975.

often not even disclosed to the family. As the Africans say, "it's a women's secret". At the birth, the mid-wife, usually an older woman, will smother the baby, with the connivance of the mother, if it shows any disturbing marks. The husband and kinfolk will then be told the child was stillborn.

Ritual crimes are more difficult to camouflage and some are no doubt no longer practiced, unless in rural areas almost impervious to western civilization. Turnbull (1965) cites certain practices such as the mass executions that took place on the death of the king of the Baganda, often amounting to thousands of men, women and children; the cannibalism of some tribes in the Congo; the savage punishments of the Ashanti, such as the "atopere" - the dance of death - where the victim is cut in pieces while forced to dance until his head is finally cut off.

But all ritual crimes are not solely a question of past history as proven by the following facts, which occurred on July 7, 1977:

> Bamako (Reuter) 1977.
> Five persons were shot at dawn yesterday, sentenced to death for having committed murder and for trading in human heads, it was officially announced in Bamako. These heads were "exported" and sold for gold in certain countries bordering Mali where, according to tradition, they joined deceased tribal chiefs in their tombs. The case of these five executions successively roused the fear, indignation and anger of the people of Mali: it was called the case of the head-cutters. (Journal de Montréal, July 8, 1977, Canada).

Among the Tiv, who believe human sacrifices are necessary in order to ensure continuing prosperity, Bohannan (1960) mentions three homicides committed to obtain certain parts of the human anatomy for the

worship of great devil-gods: in one case it was the murder of a child of seven in order to obtain his cranium; the second, a man, to acquire a tibia, and the last, also a man, to offer his head to an idol. It goes without saying that the victims chosen for these ritual crimes were selected from among other tribes, foreigners or slaves, in order to escape reprisals.

In French West Africa, Hassenfratz (1974) tells of 14 cases of recorded ritual homicide. All concerned the Ivory Coast save one, which occurred in Upper Volta:

1950: The wife of the chief of the Yopogbo canton was sacrified for purposes of ritual cannibalism.

1951: A man was sacrificed, on the advice of a witch-doctor, in order to ensure a good harvest.

1952: Upper Volta. The sacrifice of several children by the king of the Gourmontche.

1952: On the death of the former high chief of the Abbey, a panic of fear developed among the foreigners of the region. A Mali kills one of his countrymen believing he was an Abbey wanting to seize him in order to sacrifice him on the death of the chief.

1959: A man assassinates two women to make fetiches with their blood.

1962: Kaho Bismark kills several women in order to sell their blood to witch-doctors.

1962: A man is killed in order to sell his head.

a badly prepared meal, refusal to cook a certain dish, to do a chore or do it properly, the rejection of sexual advances. Hassenfratz (1974) gives the example of a husband who killed his wife in a fit of rage "because she did not bring the meal to the fields, as was the custom", (1962) and another because his wife "refused to wash the only bed-sheet" (1965).

The wife having been dearly acquired and the marriage contract being the mainstay of harmony between the families, the wife's failure to perform her domestic duties took on an importance hard to imagine. Vanderlinden (1969) states that in such cases, among the Azande, the husband had the right to beat his wife to death, to cut open her back and to cut off one or both of her ears. The defections justifying such punishment, perhaps harmless to us, were not so for this ethnic group. Vagrancy, desertion of the conjugal home, false accusations against the husband, refusal to work in the fields or have sexual relations threatened the smooth running of daily life and placed the alliance between the two clans, or segments of it, in jeopardy.

Since the wife plays an important role in the economic life of the home, in the prosperity of the family and the prestige of the husband, the coercive methods used to compel her to properly perform her duties show that she was the trustee of essential values. She was at the bottom of the social pyramid, perhaps, but it is exactly on this base that the general equilibrium depends. Thus the refusal to cook meant a rejection of her husband: it was an act of rebellion, a foreboding sign of abandonment or divorce.

The same is true of insults. The worst affront to a husband is for his wife to disparage his virility. In many criminal cases, cited by Mushanga (1974), such insults were the motivation for murder. In one case, the wife told her husband that he talked "like a woman" (Uganda, 1965), in another that he was "sexually inefficient" and she indicated that "Daudi was more competent" (1963), and in a third that he was "too small for her and he could "eat her vagina" (1955). Verbal attacks of this type are considered deviant acts by the ethnic groups, and call for punishment (among the Azande, mutilation), but not death. In moments of exasperation, resorting to vulgarities is quite common, the worst being to say to a husband "go fuck your mother". This kind of swearing exists in all societies, the Western version usually being "son of a whore" or "son of a bitch".

Other marital disagreements arise in polygamous unions - quarreling among the concubines and jealous hatred if the husband favours one wife over the others or the children of one of his wives. In a polygamous marriage, the husband is expected to act impartially and share his time equally between his wives. However, since the women live continually together under the same roof, many arguments occur. Among the Joluo of Kenya, the word for concubines is "nyieko", but it also means intense jealousy (Wilson, 1960). The following example shows the serious problems polygamy can create:

> Abidjan, May 30, 1975.
> Again the ill-fated consequences of polygamy:
> At Abobo-Gare, on May 30th, a young woman named Agnès Yapi Chiani, about 21 years of age, tried to murder her rival Jeannette

> N'Guessan Apo, about 33 years of age, by pouring boiling water on her while she was asleep. 40% of her body burned, the victim is fighting for life in the recovery room of the C.H.U. at Cocody, and the doctors haven't much hope of her recovery.
> Why had Agnès Yapi done this? Was it due to jealousy? "No" she said, "to take vengeance". The husband, M. Alfred Atsé Adepo, aged 22, an employee of the Bata plant, and living in Abobo-Gare, stated in dismay: "I have been living with the victim two years and eight months now. I married her according to Attié custom. As for little Agnès Yapi, I took her barely eight months ago and she was dowered in exactly the same way as my first wife, Jeannette N'Gussan Yapo. The two women lived together in perfect harmony for three months when a scuffle occurred. Agnès' left temple was severely injured. The matter was then settled within the family. The two of them went together to sell bananas to the workers... I don't understand why Agnès waited three months to take her revenge." According to Agnès (...), she took revenge because Jeannette was spreading the rumour that she had disfigured her and because she was always laughing at her. (Fraternité-Matin, June 3, 1975).

The victim died several days later. We have chosen this example because it is recent and because it occurred in a large city, Abidjan, and in a country, the Ivory Coast, where polygamy has been forbidden since 1964. That year a law was passed stating: "no one can contract a new marriage before the dissolution of the first". The newspaper article presents the facts of this case to prove "the ill-fated consequences of polygamy", and at the same time shows that the marriage answered all the customary legal norms of the Attié (equal dowries and treatment of the wives, and the settlement of disputes "within the family"). As can be seen, customs die hard, even in large urban centres! To ignore this is to refuse to face reality.

A fairly large proportion of homicides are the result of the wife's leaving home. For one reason or another, she returns to her parents, to her clan, but she is usually sent back to her husband after a time, either because the family is unable to pay back the dowry or does not want to create a rift between the two houses. The departure may be interpreted by the husband, however, as a sign of infidelity, the motivation thus becoming adultery, and it is not always easy to establish the difference.

Besides the homicides due to domestic quarrels, there are those that result from conflicts between the clans concerning dowries, or controversies over inheritance, land, or cattle; they can occur upon the claiming of debts or because of certain provocations (refusal to help someone, to cure him, grant him hospitality, offer him beer). In nearly all the ethnic groups studied by Bohannan et al. and by Mushanga, alcohol plays a precipitating role: at least one half of these homicides occur during social gatherings, beer party brawls, where the participants, excited by home-made liquor, start arguments that set one against the other. To taunt someone because he has no children, to call someone a coward, "toothless", and a good number of other insults (such as that of the Ashanti: "May your ancestral spirits take their own bones and eat them"), too often is tantamount to the aggressor's lighting the fuse that brings about his own end. The crowding, the constant proximity and frequency of the interactions between individuals and sub-groups are elements that generate violence.

Mushanga has reason to say that "the closer and more intimate people are, the more they will interact in the course of their daily lives, and the more they are most likely to experience conflict and hostility which may or may not end in violent homicides" (1974, p. 92).

Finally, we must take accidental homicides into account, those that occur, for example, during fishing or hunting expeditions, or when certain medicines are administered, or that are the result of error (someone goes to visit a relative or friend at night and, mistaken for a thief, is killed); others are due to animals belonging to a member of the clan or village, or to someone inadvertently injuring himself on a poisoned arrow.

Obviously these fatal accidents rarely reach the attention of the courts. Often, as soon as the evidence is given, the case is cleared at the investigation level by the police, so that there is no record among the files of the superior courts.

Infractions against morals

The moral offences dealt with here are limited to adultery, rape and premarital sexual relations.

Reference has already been made to adultery, and to the fact that, caught in the act, the husband was permitted to kill his wife's lover without any trial. But for this infraction, too, there are differences in definition from one ethnic group to another. Among the Agni of the Ivory Coast, certain familiarities were forbidden: apart from her husband and her brother, no man was allowed to shake hands with a woman; a married man

must avoid touching the underclothes of a woman other than his wife, nor could he tap her on the shoulder or on the back as a sign of friendship or in fun.[1] Bamba Nanlo (1957) gives this very broad definition of adultery:

> Adultery covered not only culpable sexual relations, but also the fact of placing a hand on a married woman's buttocks with evil intent or surprising her naked in her home. In the first case the woman was sanctioned as well as her accomplice; in the other two cases, only the guilty man was punished. The proof of adultery, apart from being found in flagrant delict, essentially took the form of confessions extorted from the woman in certain grave circumstances: illness, difficult childbirth, death" (p. 30).

This infraction, then, includes attempted seduction and any familiarity that could lead to acts of intimacy. There is nothing in this that differs from more highly developed societies. Although not sanctioned by law, much similar behaviour is interpreted in the West as a first sign of infidelity and is the cause of many marital disputes and acts of jealousy.

Rape, if the victim was married, was considered adultery with aggravating circumstances. For unmarried women, it was an extremely serious act because in certain ethnic groups the loss of virginity could compromise any future marriage. It was severely punished, frequently by death, since it set one family against another, and sometimes, for the victim's family, it eliminated any claim to a dowry. The Samo, of Upper Volta, punished rape by banishing or killing the guilty person. It was a

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1. Evidence given by J.M. Folquet (1974), The Ivory Coast.

dreadful crime. The woman or young girl who became pregnant was made to abort, or if the child was carried full term, it was killed at birth lest it bring misfortune.[1]

Premarital relations, in many African ethnic groups, was tolerated. The Yocouba, of the Man Region in the Ivory Coast, permitted their youth to have sexual relations with the wives of their brothers or those of close relatives because in this polygamous society, it was considered preferable that the wives seek satisfaction within the family rather than taking lovers, which would only lead to conflicts.[2] Almost everywhere, sex play was permitted among adolescents. Davidson (1969) reports that the Venda of the Transvaal, like many other peoples, believed that premartial sexual experience, because socially acceptable, was morally so, and that it was necessary provided it did not lead to pregnancy. These relations were limited. The girl kept her legs together and the boy could not touch the pubes, the penis being simply passed between the legs. Elsewhere, among the Ashanti, for example, to have sexual relations with a girl who had not yet reached puberty was as severely punished as murder (Hoeble, 1968).

Infractions against patrimony

Theft, in the traditional system, was relatively rare, but it was considered a serious crime, for which severe punishments were provided:

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1. Evidence given by C. Diplo (1974), Ivory Coast.

2. Evidence given by F.Y. Guié (1974), Ivory Coast.

beatings, mutilations and even death. It seems, however, that these severe sanctions were primarily reserved for recidivists or the delinquent considered a social danger. Vanderlinden (1969) makes a parallel between the mutilations inflicted on thieves in Zande and a criminal court record. In a society lacking the written word, there was undoubtedly no better way of identifying an habitual criminal (thus a public danger) than by branding him.

Measures were taken to guard against thieves and marauders by hanging gris-gris and fetiches on doors and houses as well as on trees. These would protect property and would punish the pilferers. It was a more serious crime to steal from the members of one's clan or village than from more distant relatives. In the case of the goods of other tribes, it was not an offence in itself, but gave rise to reprisals.

Among the Nuer, the theft of cattle belonging to a different ethnic group, far from being a crime, was considered a praiseworthy enterprise (Evans-Pritchard, 1968). The same is true for Madagascar, where the theft of oxen was a customary, ancestral practice that is still going on today. In the case of the Bara, Guth (1960) even sees it as a sort of national sport. To steal oxen is to show one's courage, one's virility, to become popular with the women and easily find wives. These thefts, engaged in by almost all the small northern nomadic tribes, gave rise to incessant tribal wars. This passion for cattle led certain tribes, such as the Salamat and Himat of the Sudan, to looting and pillaging. For this reason the Madagascan legislator made cattle theft punishable by hard labour and even death.

Theft was not the only infraction against patrimony. The burning or destruction of crops, huts and other goods, voluntary or not, by persons or animals, called for reparations and gave rise to trials with a view to obtaining compensation for the damage caused. Judicial procedures were necessary to restore peace as quickly as possible, for the existence of the group depended on it. It was vital.

Chapter III

The Traditional Juridic Systems

> Matungi: "It is our custom to go to the head of the family each time a dispute arises; and if the head of the family cannot settle it, he takes it to the village chief. If he cannot settle it, he takes it before the chief of the tribe." (Turnbull, 1965)

Whatever the formalism of the traditional African juridic systems, all authors agree that the primary objective of justice was the same everywhere: to reestablish order and eliminate the cause of the conflict, either by compensating the victim for the damage done, or by rendering the delinquent ineffective if he constitutes a permanent threat to the amicable relationships between the members of the clan or tribe.

Justice was characterized by considerations of equity regarding both the injured party (adjustment in goods or in cash; restitution of the stolen object or its reimbursement if it had been destroyed; replacement of the victim by a member of the kinfolk or family of a person guilty of homicide or of taking vengeance) and the delinquent, whose reinsertion in society, wherever possible, was preferred to punishment or elimination.

The purpose and implications of traditional justice are found throughout the judicial process. The study of how customary justice is administered shows its social importance and function and throws light on the particular concerns underlying the customary laws. There are three main steps in the criminal procedure: 1st, the institution of proceedings

or commital for trial; 2nd, the trial through which the guilt of the suspect will be proven; 3rd, the sanction intended to redress the wrong done or punish the delinquent.

Proceedings in justice

Among the African nations, there was not always a great gap between the informal public reaction to deviance and the more institutionalized reaction of resorting to law. This is especially true in acephalous societies, where it is the coercive authority of the entire group that enforces the legal norms.

Turnbull (1957) was able to observe a good example among the Pygmies of the Congo, a people without any political hierarchy. Cephu, a Mbuti hunter of the Ituri forest, behaved in an anti-social way during the hunt by placing his antelope traps ahead of those of the other hunters. This was considered a type of theft and therefore a very grave act. When his deceit was known, camp was abandoned and all returned to the village, for this was a very serious matter that had to be settled immediately. By his behaviour, Cephu threatened the cooperation of the band of hunters who could survive only through a system of reciprocal obligation guaranteeing each hunter a share in the day's proceeds. At the village, everyone ignored Cephu. It was as though he didn't exist. He approached a young man who was seated, and as Cephu was much older, the seat would normally have been offered him immediately. When he became indignant, he was told that animals had to sit on the ground. Then he tried to justify his act by saying he was a band chief and therefore an important man who had the right to a better place for his traps. He was answered that he was a

peasant, that the Mbuti had no chiefs and that he could leave with his band if he liked. Since the latter comprised only three or four families, it was too small to make up an effective hunting unit. Finally, realizing that he could do nothing and that leaving the group would create a difficult life for him and his family, perhaps even death, he asked the hunters' pardon, gave back all the meat he had acquired fraudulently, and was then reintegrated in the group.

In this case, without an "official" trial, the consensus concerning the conduct of the group was such that the condemnation and threat of a sanction constituted a sort of informal trial. The threat of ostracism, however, was real and so powerful that it forced the guilty person to redress the wrong done to the community, the only way he could obtain pardon and become once more a member of the community with full rights.

Another type of proceeding in justice that has the semblance of a trial is that which the Bété of the Ivory Coast call the "Gbagbe", or the interrogation of corpses. The same practice is found in other ethnic groups, such as the Dida and the Alladian. Since these people do not believe in natural death, each time someone dies, the corpse is asked to name the person responsible for his death. Among the Dida, four people pick up the body after pointed pieces of bamboo have been attached to its feet. The carriers then run around the village, guided by the spirit of the dead person. Either nothing will happen and it is concluded that no one in the village had caused the death, or the corpse will bump against the hut of the presumed assassin. The interrogation then begins:

> The owner of the house will ask the dead person: "Am I your assassin that you come knocking against my home? If I am really the author of your death, say so!" A sage of the village will intervene then and ask the corpse: "Is it really this man who killed you? If so, go to meet him!" The carriers, guided by the dead person's spirit, will step back and will advance to knock three times on the hut if it is truly that of the murderer. If the latter confesses his guilt, he will be punished (execution or reparation), if not, he will have to stand trial.[1]

Augé (1969) describes almost the same procedure among the Alladian. The person accused by the corpse was traditionally submitted to trial by ordeal, unless he freely admitted his guilt, which was not often. Here we have a specific situation, death, which gives rise to justice proceedings that take the form of a ritual. The interrogation of cadavers continues to this day, save that the guilty person is not put to death but must make compensation to the family of the deceased. No doubt this divining procedure should be seen as a means of exposing sorcerers and a method of dispelling the hatred and rancour that may exist between two families. During our stay in the Ivory Coast, a university professor, himself an Alladian, had to intervene at Jacqueville, 30km from Abidjan, where the carriers were to place the body they were going to interrogate. He had the corpse carried by Africans from the city, however, not from Jacqueville, in order to show that the whole procedure was nothing but superstition!

Apart from justice proceedings similar to trials and spontaneous and violent "judicial" reactions, such as those already mentioned (the

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1. Evidence given by Adjanor Raphael, Ivory Coast, 1974.

murder of sorcerers, thieves and adulterers), there is recourse to juridic institutions, or their counterparts, by preferring charges. The gravity of the infraction, the social position of the antagonists as well as the structure of the group determines the form the judicial process will take.

Among many African nations, even where there are courts or institutionalized jurisdictions, conflicts implicating members of the same family group will be settled within the family unit, without the intervention of the Elders of the tribe; unless, of course, it is a question of offences against public order. As far as possible "you dont wash your dirty linen in public"; thus the reputation of one's own family or one's own clan remains unsullied in the eyes of others. In such cases, the matter is brought before the head of the family who is usually the eldest of the group. But even for inter-family conflicts, if the conciliation has not proved satisfactory, it is often possible to bring the case to the public square. The Ibo have several procedures for doing this: the plaintiff runs through the village beating a tom-tom in order to alert the Elders, or else he petitions them directly; he may also drive a sacred lance into the ground in front of the home of the opposing party (or that of his parents if he is a minor) (Green, 1947: see Elias, 1961).

In unicentric and hierarchic societies as well as in anarchies, the first legal action taken is almost always a family matter, except in cases of sorcery or homicide which are generally brought directly before the highest court. The head of a family has jurisdiction only over his own family members. When a dispute involves two families or two villages, his jurisdiction is no longer recognized, and a third party must be

brought in: a conciliator, a Council of Elders, or the village or tribal court. The Nuers, who according to Evans-Pritchard (1968) have no law, appeal to the Elders who try to find some grounds for agreement between the parties in order to settle their differences. As in the case of tribal chief, the Elders have no political authority and so cannot force the parties to accept the compromise. However, there is an effective coercive psychological power, according to Evans-Pritchard, who states that if,

> (...) in spite of everything, the people refuse mediation, the chief would take a short-horned ox, and after calling upon God, would kill it (...) so that the members of the family disdaining his services would perish in the pursuit of their vendetta.

In state communties, courts exist at all decisional levels, from the family and village to the district, on to the chief or king of the tribe. At each level there is a jurisdictional authority, with powers reserved for higher agencies in the hierarchy, in many cases, and a control over the lower jurisdictions in the form of appeal. Thus there is a pyramidic structure with the supreme authority at the top, alongside of which sits the court of appeal.

In groups without a state, disputes between members of different families create a confrontation of equally recognized centres of power. In these bicentric systems, Bohannan (1967) shows that justice tends to be achieved more through compromise than decision. It is for this reason that the rules of law seem less precise.

Even though the leading citizens and Elders enjoy prestige and their jurisdiction is recognized by the members of the groups who choose

them as arbiters, the administration of justice is still of a collective nature. As all the persons involved can usually participate in the discussions, the solutions suggested become judicial decisions, for they come from an accepted authority, at least in each particular case, and are based on a social consensus.

The Trial

Once the charge has been laid before a court of a freely chosen authority (most often a council of Elders), the trial itself begins; it follows a set procedure that only varies by the more or less formal nature of the hearings. All depends whether the judicial process is institutionalized or not, and whether the judges are professionals or not. Among the Fang of the Congo, for instance, the judge is not necessarily a chief but is accorded the role because of his savoir-faire and his personal prestige. This prevails to the point where the Fang may sometimes resort to judges of a foreign clan (Balandier, 1955).

Particular importance is given everywhere to conciliatory procedures. In effect, when an infraction causes a confrontation between two family groups, there are only two possible solutions. The first is to give the injured party satisfaction by punishing the guilty person or by arriving at an arrangement that will reconcile the opposing parties; the second is to give free rein to private justice, that is, reprisals and the vendetta.

This last solution takes its toll socially, for pursuing a vendetta will end, sooner or later, by involving other families connected by

kinship and marriage. Thus vengeance will spread throughout and, if continued, will eventually attack the foundations of community life and group solidarity by pitting one against the other. A case cited by Colson (1962: see Gluckman, 1971) shows how, among the Tonga of Northern Rhodesia, a conflict can spread, through links of kinship, over a vast network of villages.

A Tonga of the Elan clan killed a member of his tribe who belonged to the Lion clan. The murderer was arrested by the British authorities and sent to prison. The Lion clan then cut off all their connections with the Elan, who lived in the neighbourhood. The Elan women who had married men of the Lion clan were subjected to insults and threats by the parents of their husbands. The latter were annoyed at this. An important local leader intervened. The Elan offered some cattle to the Lion to compensate the loss of the murdered victim, and peace was restored. However, the Elan clan was slow to pay what they had promised. Then, says Colson, it happened that the son of an Elan mother and a Lion father fell ill and died. The medicine-man declared that the spirit of the murdered man had killed the child because the debt had never been honoured. The women again started to exert pressure on the male relatives to settle the matter. The dispersion of vengeance groups throughout many villages and the large number of marriages between the Elan and Lion clans gave rise to factions and tensions everywhere, and intervention was increased in order to arrive at a settlement of the conflict as quickly as possible and restore peace. This was finally done. This example shows the proportions a dispute can assume. By spreading step by step, it snowballs into hostile and rival factions and involves persons who, at the start, were not

directly implicated in the offence. It is social solidarity that extends the quarrel and makes it necessary for the groups involved to resolve it before it degenerates and makes the social climate unlivable.

Judicial procedure generally starts by taking steps to refer the criminal case to a recognized authority. This can be done by laying a complaint, by informing against someone, by petition or voluntary appearance of the parties involved. The trial here has a double objective, to determine who is at fault and who is within his rights, and once this is made clear, to have the guilty person acknowledge his offence and his guilt in order that an equitable arrangement can put an end to the controversy. The trial has different stages. When a petition is made before a clan chief, a Council of Elders or a court, the first step is to summon the suspect, if he is known, or if not, to identify him.

When the author of an offence is not known, divinatory practices are used to point him out. Also, in the case of a mysterious crime, the first thing the victim or his parents did was to consult a seer. Elias (1961) explains that these seers did not choose the suspects at random. Through their experience and psychology of men, their intimate knowledge of the inhabitants of their village, region or tribe, and also because of the scrupulous care they took to question and investigate, taking all possible elements of the case into consideration, these far-seeing and capable practioners would often be able to assemble a group of suspects, amongst whom there would be every chance of finding the guilty person. Once the suspects were known, the offender among them had to be identified and his guilt proved.

Another procedure for seeking out the author of an offence was that of totemic proof. Varlet (1959)[1] mentions this in his analysis of indigenous customs of the Ivory Coast and the methods of obtaining proof. When a person was the victim of a violation of law by an unknown, he could entrust to his guardian ancestor the task of discovering the delinquent and punishing him. The victim adresses him, then, in these words: "May my totem occupy the one who harmed me! May it deny him sleep day and night!" The same day or several days later, this invocation is supposed to bring about the sickness and even madness of the guilty person. This totemic proof, among others, is practiced very frequently by the Agni-Ashanti. In the Krou country, too, the Totem "Koui" is considered the great administrator of justice. He is publicly called upon to force the author of an offence to denounce himself. This invocation has the character of a ritual, solemn and religious, which exerts an effective pressure, it would seem, on the offender, for among the Krou, no one can ever remember a case where the delinquent did not give himself up to the chief of the village. The procedure is this:

> The victim of an infraction, according to custom, informs the village chief. The latter advises his leading citizens. By night, the chief, the leading citizens and the victim meet in some corner of the village and, through the voice of the sole servant of Koui, who is not necessarily a medicine man, discloses their problem and the object of their meeting: "Koui, oh Koui, thou who

1. Varlet, Albert Mensah. Now First President of the Appeal Court of the Ivory Coast. We thank him for having been good enough to give us a copy of his paper "Methods of proof in criminal procedure and indigenous customs of the Ivory Coast", presented in 1959 when he was a student at the Faculty of Law, magistrature section. Unpublished text.

> seest all! Evil is in our village, but we only ask for peace... Your servant X is sad at heart. He has just been robbed of two loin-cloths... Inspire the author of this theft and lead him to the feet of the chief... Let him make restitution! If he does not, your people ask you to bring misfortune on this dishonest person, whether on the water, in our village or in the woods."
>
> Any man can be present during this prayer to Koui. The women, however, are absolutely forbidden to go out on this night, for they must not see, on pain of death, the idol representing the Totem Koui. Locked in their homes, they must only listen to the prayer to Koui, spoken in a loud and clear voice... This prayer is even cried out to the four cardinal points of the village (Varlet, 1959, pp. 34-35).

It was the court's mission, or that of its counterpart, to determine the legal responsibility of the accused and how reparation was to be made for the harm caused. Most of the time the trial was public and the judges held their hearings either in the court of the head of the family, that of the chief of the clan or village, district or tribe, or under the palavering tree. Whoever presided over the court, the chief or the king, the Elders, everywhere, played a dominant role. Since all the procedures and laws were oral, it is easy to understand the importance of the old men - the memory of the group and guardians of the traditions and customs.

The laying of a complaint started the judicial process. This action could not be undertaken lightly. The plaintiff had to have strong presumptive evidence, for he himself was exposed to facing certain procedures, such as trial by ordeal. Furthermore, if his accusation proved groundless, he had to make reparations for injuring the honour of the innocent person, and if he acted deliberately out of spite, envy or jealousy,

he became the object of abuse. Rites and ceremonies also had to be performed to purify the innocent person of the taint suffered by the false accusation:

> Sikensi: The washing ceremony at Sahouyé. For two days, this Saturday and Sunday, the little village of Sahouyé, s/prefecture of Sikensi, will certainly see some excitement: old Djidji, chief of the village, will be "washed" during the course of a ceremony of rejoicing, featuring numerous folkloric dances and rituals.
> Old Djidji had been falsely accused of the murder of one of his Abidji compatriots. The case was taken before the Abidjan Court of Assizes which acquitted him and pronounced him not guilty. According to "Abidji" tradition, when a person is accused of an act and is found innocent, he is "washed" during the course of a ceremony, (the Ivory Coast, Fraternité-Matin, 16-17 Nov. 1974).

During the hearings, the court heard the plaintiff, the witnesses as well as the suspect, or accused. Everyone, in most cases, had the right to speak. The plaintiff, or his representative, stated his grievances, demonstrated the nature of the offence and attempted to prove the guilt of the accused. The witnesses could give their evidence concerning the charges against the accused, as well as everything that could have any relevance to the case; previous disputes, misconduct, jealousy, rivalry. This enabled the court to arrive at a conviction. As for the accused, he could either confess or deny his guilt and show the falsity of the accusation. The procedure often took on an "inquisatorial" aspect, for it was the judges who did the questioning of both parties and the witnesses.

According to Delmas (1975), confession was the ideal proof. It could be obtained through persuasion under pressure of parents or members

of the community, or by force under the effects of violence and torture. Varlet, already cited, points out some nuances concerning the importance of the confession. The Agni-Ashanti did not recognize it as the ultimate proof, the "probatio probatissima". It was only decisive if the accused had a bad reputation. The confession, then, had to be supported by proof through hearsay evidence which was like a sort of investigation of morals. Very often, when the confession did not seem to be sincere, the person was asked to take an oath on a fetish, as was the case for the Tagouanan of the Katiola region.

With regard to the forced confession, torture was used only in exceptional cases when the presumption of guilt was sufficient. Augé (1975) reports that after the interrogation of a cadaver, which took place at Abidjan in 1968, the suspect, Antoine Y., was questioned at great length several times before the family tribunal. Forced to stand exposed to the sun from 9A.M. to 4P.M., he was invited to confess his crime. Finally threatened with being buried alive in the tomb of his victim, in the end, the Allaidan broke down and confessed all.

Nonetheless, torture was hardly ever practiced systematically, and almost everywhere, the principle of "noli me tangere" prevailed. The Africans had a very strict idea of justice, as shown in their proverbs, such as those cited by Mangin: "The law does not look at people's faces" and "One should not kill someone who has not yet spoken, nor kill him because the mouth of his accuser has opened" (p. 235).

When, after hearing the witnesses, there seemed to be insufficient proof or the evidence was contradictory, the plaintiff and defendant,

as well as their representatives and sometimes even the witnesses, were made to swear under oath. The oath plays an important role in the trial, as it does in modern societies, where in certain procedures it is always required. False witnessing and perjury therefore become subject to sanctions. Among native peoples, the oath, even today, has a religious aspect in the sense that it is a direct exhortation to the gods or ancestors to punish anyone who, after taking an oath, does not tell the truth.

Among the Attié, the plaintiff and the accused, each in turn, lifts his arms to the heavens to take an oath. Each gives his version of the facts and asks the fetish to cast an evil spell on him if he has lied. After a certain time, should he fall ill, this will be proof of his guilt.[1] The oath is used in almost all African ethnic groups. The formula for swearing, which is of a sacramental nature, is the same everywhere: a sacred object is invoked (the king's throne, a river, cemetery, hyena's tooth, earth taken from the hut of a dead woman...) to solemnly affirm his good faith by submitting in advance to the sanction that could follow a false declaration: "If I am lying may Kithitu (the fetish) seize me", (Penwill; see Elias, 1961). The claims of a plaintiff to whom an oath has been administered and who refuses to swear are usually dismissed and his refusal is considered a confession of guilt.

An oath is never taken lightly, and a person who uses one as a swearword, and not during a trial, has to expiate by a sacrifice and pay a fine. It is an offence against custom for it implies in itself a criminal intent. Because of the deadly consequences it can entail, the oath

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1. Evidence given by Ambroise Allepoh, Ivory Coast, 1974.

plays an important coercive role, psychologically and even physically, forcing the parties in a trial to stick to the truth as much as possible. However, the response of the fetish invoked is slow to be felt. According to Elias (1961), the Africans believe that it can take a period varying from several days to about six months after the swearing of the oath. For this reason very often trial by ordeal is used to hasten things.

Tewksbury (1967) defines the trial by ordeal as a primitive form of judgment used to determine the guilt or innocence of an accused, the result being considered a divine or supernatural judgment. As in Europe in the Middle Ages, the "judgment of God" was resorted to when there was insufficient proof available. It was not standard procedure, but rather a measure of last resort to which suspects and accused could freely submit themselves. It could happen for example, that where the evidence and circumstantial evidence seemed to prove a person's guilt, he himself would demand that both he and his accusor be submitted to trial by ordeal. If his accusor refused, the innocence of the suspect was acknowledged and the plaintiff could be convicted for false accusation. Trial by ordeal combined the effects of the oath (of a religious nature) and of torture (of a punitive nature), a condensation in time of the results of the oath. These were ordeals that could cause serious bodily injury, and even - in certain cases - death.

Judicial ordeals intended to bring the truth to light in a dramatic way are to be found throughout all Africa. They can take the most varied forms, from rituals connected with divination, with no physical effects, and magic misfortunes brought about by psychosomatization right

up to practices which have a direct effect on the health or physical integrity of the accused. The Mina, of Togo, use almost the entire gamut of these options. To prove the guilt or innocence of an accused, one of the following procedures can be applied:

1. The suspects are made to drink a mixture of water and palm oil. Each one takes three mouthfuls. Then they are each given a cowrie[1] which they must let fall in a container full of water. The cowrie of the guilty person will float on the surface.

2. A poisonous liquid is put in the eyes of the suspects. The guilty one will become blind.

3. The medicine man breathes magic words into the ear of each of the accused; the guilty person will thereupon become deaf.

4. A venemous serpent is placed in an enclosure containing the suspects. The one who is bitten by the serpent is considered the author of the offence.

5. A plate is given to each of the accused, who deposit some white powder on it. The face of the guilty person will be imprinted on the bottom of his plate.

6. A gourd, filled with a sticky liquid, is placed on a hoop. The suspects one after the other lift up the gourd. The one who lifts the gourd to which the hoop remains stuck is declared the author of the crime.[2]

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1. Cowrie: a shell valued as a religious symbol or monetary unit.

2. Evidence of Kalipe Epiphane, gathered in the Ivory Coast in 1974. According to him, trial by ordeal nos. 1, 5 and 6 are those most often used even today by this ethnic group in Togo.

These procedures, of a sacred nature, were under the jurisdiction of medicine men who interpreted the results according to the evidence, just as the augurs and seers used to do in Rome. At Burundi, other methods were used. First a little of the suspect's saliva was put in the beak of a chicken and then the seer "read" the verdict in the entrails of the bird. Then there was the trial by red hot iron. A sickle, dipped in the saliva of the accused, was reddened in fire, and if blackish traces appeared, it was interpreted as proof of guilt. Helvétius (1969), also describes trials in the same region that had more direct effects on the individual: a drug that rapidly caused a raging madness which could be stopped, in case of a confession, only as soon as the first symptoms occurred; or that which obliged the person suspected to plunge his hand in boiling water and take it out unharmed to obtain his acquittal.

In Africa, there were countless trials by ordeal and they differed according to the various groups. At Madagascar, the best known was the "tanghin". Mangin (1960) describes it as follows:

> It was a grain containing a poison and concealing a spirit capable of distinguishing the innocent from the guilty by poisoning the latter. The poison acted upon the spinal fluid and produced a paralysis of the heart. The suspect had to swallow this poison, whose effect was previously tried on a chicken. This trial, which cost the lives of more than 3,000 persons a year in Madagascar, was forbidden by Queen Rasoherina in 1865 (p. 236).

Like the oath, the trial by ordeal was given a supernatural aura by a sort of sacramental formula. Among the Guéré, one of the most common forms of judgment by God was that of boiling oil into which each of the accused had to thrust his hand three times to find some palm seed lying

at the bottom of the container, saying: "If I am guilty, when I put this hand in the oil, may God see that it is entirely destroyed and that I shall never be able to use it again; but if the contrary occurs, may all those who accuse me be seized by shame and misfortune." The same trial, it seems, is also given in an even more spectacular way, using cold oil that begins to boil as soon as the guilty person puts his hand into it.[1]

Varlet, in his unpublished study (1959, op. cit.), recalls with sadness and heartbreak the cases of people he knew who had to undergo trial by ordeal. Nemlin who, rendered blind by the test of Euphorbia sap ("gopo"), had to accept the judgment with resignation: "My cousin has died of illness. But since the powerful red wood, in making me blind, accuses me of being the author of his death, I must accept this accusation. Perhaps my spirit killed my cousin Toh by night. I am guilty". And the young Nékaré, who died after having eaten a poisoned egg in order to prove that she had not been unfaithful to her husband. Then there was Tayou, accused of theft, whose hand suffered a second degree burn in the ordeal of boiling oil, and who, without any resentment, found nothing the say but "I must have taken this money without knowing it".

Varlet describes other forms of trial by ordeal in use among the Krou, the Gouro and the Bété: for example, use of the bile of a cayman (alligator) with which a poison was manufactured and that of a boiled human liver (perhaps, according to him, taken from one of the human victims sacrificed on the occasion of certain secret ritual ceremonies). Many other recipes for discovering an offender could be cited, many other kinds

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1. Evidence of Fafana Mamadou Hamed, Ivory Coast, 1974.

of "African polygraphs" (trial by drowning, strangling, injecting with needles or arrowheads...) all meant to separate true and false, to identify the author of a particularly heinous crime. Most of the time, a confession made it possible to escape this type of judgment and, if the trial was already in progress, it could have its effects counteracted, if at all possible (by washing the eyes, by administering a counter-poison, an emetic).

However, one should not misjudge the trial procedure in African societies. Swearing on oath and trial by ordeal were used only in cases of extreme gravity (almost exclusively criminal) that affected the community at large, and then only with the consent of the persons concerned or involved in the dispute. The trial consisted, first and foremost, in long, patient and detailed discussion about the facts of the case and the antecedents of the antagonists, discussion that gave all members of the community (or often only the men) an opportunity to speak. When the principal parties and witnesses had been heard, as well as the circumstances of the infraction, and the evidence and proof examined, the chief of the court and his assessors, or the Council of Elders, withdrew to deliberate. A decision having been reached, it was announced by the herald, in hierarchic societies, and by the seniors of the Elders in stateless communities. The judgment could be appealed before a higher court. Only the decision of the king or the king's court was final.

The sanction

The most serious offences that were sanctioned by the customary justice were - as we have seen - sorcery, murder, assassination, theft,

adultery and attacks against the person of the king in strongly centralized tribes. In the great majority of cases, as Elias (1961) points out, the general atmosphere of the trial was an orderly discussion of the disagreement between the parties, discussions that took place in the certainty that the wisdom and experience of the Elders would lead to a solution acceptable to the litigants. This was the spirit in which the sanction imposed on the guilty person was perceived and approved by the victim and his respective representatives. The sanctions could be psychological in nature (shunning, ridicule, ostracism), financial (a fine, restitution, compensation) or physical (corporal punishment, torture, death). Several types of sanctions could be combined. It all depended on the gravity of the offence or crime, its nature, the degree of responsibility of the author and the attenuating or aggravating circumstances.

As already pointed out, outside of acts that gave rise to unanimous and extreme condemnation, an effort was made to give the victim satisfaction that would appease his hostility and keep the injured faction from starting a vendetta. Private vengeance could lead to the self-destruction of the opposing families.

The "multiplex" relationships that linked the extended families and clans prevented the imposition of punishment that was too rigid and severe, and so tended to avoid excessive and endless acts of vengeance. The judicial procedures almost always ended in the public reconciliation of the opposing parties, who participated in a sacrifice to appease the wrath of the gods and ancestors, and who shared a meal where they buried the hatchet and started a new era of peace between them. The demand on

the part of the victim for an unduly large compensation could go against him or his family later on by creating a process of reciprocation between the families concerned. Excessive reparation was something not easily forgotten, and based on experience, a certain moderation was called for during the settlement of a conflict.

Suffice it here to describe the main types of sanctions for various offences and to give a general outline of the gamut of punishments inflicted on criminals and delinquents.

The death penalty

The death penalty, even for sorcery and homicide, was a measure used only "in extremis" to sanction crimes which, by the horror of their motive aroused the anger and unanimous censure of the group. In many cases, the parents of the guilty person disowned him and broke all ties with him. Sometimes, in order to be sure there would be no reprisals on the part of the victim's family, it was a relative who had to execute the criminal. At least in the majority of cases, the execution was carried out with the approval of the clan to which he belonged.

In cases of homicide, where the family of the accused did not want to pay compensation, the Kikuyu of Kenya required the collaboration of a brother or father, or a very close relative, in his execution (Dundas, 1915: see Elias 1961). This eliminated any possibility of a future vendetta.

Corporal punishment

Most often, corporal punishment for serious infractions and for persons who were considered "on the downward path", was accompanied by other measures: a fine, restitution, compensation, subjection to ridicule, etc. Almost all the forms of torture described above to obtain a confession also served as corporal punishments; there is no need to go over them again.

The Attié, for slander, lying and rudeness to the authorities, burned the deviant's lips with hot iron or scraped his mouth against the ground till it bled.[1] At Porto-Novo, in Dahomey, King Toffa had thieves beaten to unconsciousness; even the smallest theft brought its author a thrashing. The Toucouleur of Senegal and the Fulani, an Islamic people, resorted to beatings and mutilation: amputation of the thief's hands, for example, or if a recidivist, the cutting off of an ear (Corre, 1894: see Coissy, 1974).

Among the Guéré, a thief who could not restore the stolen object underwent a severe punishment that brings to mind that of Sisyphis or the Danaides. On the day of his sentence, he had to leave the village at six o'clock in the morning, carrying on his head a pail which he had to fill at the river and bring back to the chief. As soon as he would return, carrying the pail of water, the victim of the theft would spill it, while

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1. Evidence of Allépoh Ambroise, Ivory Coast, 1974.

the villagers jostled him and hit him. He then had to make the same journey over and over until night fell, never succeeding in bringing the water to the village chief.[1]

The Dida, of the Ivory Coast, marched the thief through the village, the stolen object around his neck, beating him until he was exhausted.[2] The Attié tied his hands behind his back, smeared him with clay and coal to make him look ridiculous and paraded him in the market place with whatever he had stolen. He was hooted at and ridiculed and then beaten by a former thief. With minor differences, the same scenario is encountered throughout all of Black Africa.

Similar punishments were inflicted for incest, adultery and rape. Among the Peul[3] of the Central African Republic, in cases of adultery, the husband and the lover fought each other with knives, sabres or "saourou" (a staff of hard, knotty wood which the Peul were never without). The first wounded - whoever it was - went to the chief to lodge a complaint. The quarrel ended after a great deal of palaver (Revue Balafon, No. 31, Paris, 1957).

Among the Nandi, in East Africa, the recidivist was tortured: his head was bound with leather thongs or bow strings which, when tightened by twisting a piece of wood, left him marked for life (Clifford,

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1. Evidence of Mamadou Hamed, Ivory Coast, 1974.
2. Evidence of Raphael Adjamor, Ivory Coast, 1974.
3. The name given the Fulani in the French African countries.

1974). This was the mark of Cain. It was the same for the Boganda, in Uganda, where the lover, if unable to compensate the husband, was maimed, an arm or leg being cut off, or an eye put out (Nkambo, 1969). Everywhere, an act had to be considered extremely grave by the general population before bodily punishment was used, for social stigmatization had very important and permanent consequences for those members of the community who experienced it, as well as for their family.

Defamatory punishment

To those who live in a mass society, where not everyone is known personally and the people don't live in constant contact with one another, scorn and ridicule may seem ineffective. The anonymity of large societies serves as a refuge. There is always the possibility of changing one's village, city, employer and friends in our modern communities, thus escaping the shame that an unacceptable act may bring.

It is quite the contrary in traditional societies where the people live in close contact with one another and where everyone knows everything that goes on:

> Even at night, it is enough to raise one's voice a little for the whole settlement to be aware of the most intimate quarrel. Under these conditions, to be quaranteened or made the object of constant jibes makes life intolerable. This is why group pressure, however indirect, is a very effective punishment. This type of sanction is also moderate and lacking in brutality for it requires the unanimous agreement of the group. If someone believes the sanction is too severe and does not fully participate in the general attitude of censure, the sanction immediately loses

> its power and efficacy. The entire group must fully approve of the collective attitude. There will be a tendency, then, to fall in with the opinion of the most moderate rather than that of the most severe (Maquet, 1966, p. 82).

We have seen that corporal punishments were intended to humiliate and ridicule the author of an infraction. For lesser offences, there might be no element of "physical sanction". For example, it was degrading for a woman to have her head shaved and be obliged to wear a single loincloth. For one reason, the coiffure and arrangement of the hair was a symbol of feminine coquetry in Africa, and for another, the prestige of a wife was measured by the number and value of her loincloths. Among the Gouro, the unfaithful wife who could never marry again after having been repudiated by her injured husband, was harassed by the youth who called her names, such as "flat feet" or "wood that fire refuses to burn", insults that were of the utmost gravity.[1] As for the man guilty of adultery, besides the fines he had to pay, he was obliged to drink the water that had been used to wash the underwear of his accomplice. Among the Samo, both parties in an adulterous relationship were put in the pillory for several days, and when released were forbidden access to the local markets for a certain period.

In many places, thieves had to make a tour of the village, carrying the object of the crime on their heads, and chanting "I have stolen, I wont do it again". The children follow, mocking them (Mangin, 1960). Among the Attié, as among many of the peoples of the Ivory Coast, social

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1. Evidence of Antoine Trié Billé, Ivory Coast, 1974.

stigmatization could last for a long time. Many years after a theft, anyone at all could suddenly address the former thief before the village chief saying: "You were found guilty of theft, you are not ashamed".[1] Sometimes a song was composed, relating the event, and was chanted in front of the delinquent during public festivals. It was a sort of oral court record. The Yacouba pointed at the delinquent and avoided him. Among the Guéré, thieves were the laughing stock of everyone and were sometimes no longer able to get married.

The delinquent, then, had to face shame, censure, derision and mochery. Seeing that it was necessary to make people forgive and forget, he was obliged to behave in an exemplary way. Only this would, in time, bring about his total reintegration in society. He had to reform. Group pressure on the individual was even stronger in that it came not only from other clans, but from his own family as well, for its reputation and honour had been sullied by his antisocial behaviour. Everything was done to avoid recidivism. A recidivist was generally sanctioned by a more serious punishment or banished from the village.

Ostracism

A deviant person who is considered incorrigible, that is, unresponsive to the censure of the community, will be removed by various procedures: quarantine, exile or unusual techniques such as the Madagascan "rejection" which, once pronounced, excludes the guilty person from the "right to a tomb" (the most dreaded sanction), from succession and from

1. Evidence of Judge B.A., bush Magistrate, Ivory Coast, 1975.

community life (Poirier, 1968). As Maquet (1966) notes, the threat of ostracism in unstructured societies had a very strong dissuasive power. A hunter, for instance, who was ostracized, being unable for long to make a living alone, had to have himself admitted to another band. But what band would willingly accept a person so antisocial that he was expelled from his own group? Often just the threat of ostracism was enough for the delinquent to submit in time.

Ostracism, like the death penalty, was used only for the most serious crimes - sorcery and assassination. It avoided the necessity of spilling the blood of the convicted offender. In general, for the African, the land occupied by a people is sacred, for the ancestors, who had taken possession of it and settled it, had made it "cosmic". By occupying a certain territory and, above all, by settling in it, man symbolically transformed it into a Cosmos by the ritual repetition of the Creation of the Universe by the gods. Beyond this territory is the unknown, the foreign, the abode of demons, therefore of Chaos (Eliade, 1965). Also, for the primitive mind, to spill blood on the land is a sort of sacrilege. Anyone who does so is rendered impure and must submit to purification rites.

For these reasons, the native people resort to the death penalty as seldom as possible, preferring banishment.

Patrimonial punishment

The criminal sanction is fundamentally a community reaction against the act of a member who has injured a deep moral feeling and produced what Radcliffe-Brown (1968) calls a condition of social dysphoria.

Its function, then, is to restore "well-being", "euphoria" within the community so that it can take up its activities once more in a harmonious atmosphere. Most often the sanction is both reparative and repressive, giving compensation to the victim and imposing punishment (preferably financial, if possible) on the offender. Because of this, patrimonial punishment is largely dominant in the range of punishments, and gives traditional justice a specific complexion.

Taking into account the several aspects of African beliefs and civilization, referred to briefly, it seems obivous that the functions of exchange, reciprocity, alliance, equilibrium, solidarity and cohesion are convergent forces which, in the area of justice, lead the latter to favour solutions of agreement, compromise, conciliation and compensation. The tribes, clans and blood lines form groupings that live in seclusion and must assure their own viability. Misfortune breeds misfortune, blood calls for blood and vengeance provokes vengeance. These circular mechanisms can become spiral movements which, if not checked, will suffocate all community life. This explains why, in Black Africa, the aim of the justice system is to reconcile victims and offenders by decisions that are acceptable to, and accepted by, the persons or groups in conflict. Compensation of the victim is everywhere the primary and ultimate objective of all trials.

Chapter IV

The Survival Today of Traditional Justice

> The rain wets the leopard's spots,
> it never washes them away.
> (Ashanti proverb)

So far, we have tried to show that there were certain particularities in the traditional justice with regard to legal norms (of a sacred nature, based on religious and magic beliefs), spontaneous sanctions (homicides of criminals caught in flagrant delict), judicial courts (very often family or village authorities), procedures (artbitration, conciliation), methods of obtaining proof (oaths, trial by ordeal) and sentences (preponderantly compensation). These were characteristics which not only found little place in the justice systems imposed by the colonial powers and later adopted by the public authorities after Independence, but which were rejected in large part as being inhuman and barbarous practices, incompatible with a civilized justice of the international type. Whatever our judgment of the customary juridic systems or their future, what is important is that they actually exist and, in continuing to function, have an influence on the institutionalized crime agencies, and, by this very fact, on reported crime. The first question that arises is: To what extent does the customary law still survive? The second: Why does it still survive today? The third: What are the factors explaining the coexistence of two juridic systems?

The degree of survival of traditional justice

Despite the appearances of modernity in the cities and the European behaviour adopted by the city dwellers, there is no doubt that the

Africans continue to respond to ancestral precepts and that, as Croce-Spinelli (1967) wrote, the society and mores have evolved more quickly than the individual subconscious (p. 279). It is foolhardy to try to evaluate the amount of customary justice practiced, still today, in modern Africa. No longer legal in the cities - especially in criminal matters - it has been forced to function in secret. This makes a quantitative study impossible. Its survival, however, is proven by acts which, because of their gravity, and through indiscretions, chance discoveries or the laying of complaints, finally reach the courts. All we have to go by are indications, but these are sufficiently numerous and pertinent to prove the persistence of traditional cultural customs and the maintenance of certain institutions.

Two examples, taken from material gathered in the Ivory Coast by Ezzat Fattah,[1] in 1973, give evidence of the recourse to customary mechanisms to settle conflicts. They were selected in order to show the differences in the definition of criminal acts as well as pointing out the serious crimes that can escape police investigation and how they finally end up in court.

The first case concerns a murder, committed in the context of a ritual sacrifice and a debt between families. The setting is a small bush

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1. We thank Ezzat Fattah, present director of the Department of Criminology, Simon Fraser University, Canada, for his kindness in lending us, for consultation, all the data he gathered in the Ivory Coast in preparation of a study on homicides and suicides. The information has not yet been published.

village, Gnakanepo, in the Tabou region, situated some six hundred kilometers from Abidjan. The victim is a child of two years of age. On November 5, 1965, the father reported its disappearance to the constabulary, who found the body two weeks later in a swamp. Here is a resumé of the facts: several months before the crime, in July or August, 1965, four villagers, during an annual meeting of sorcerers, had decreed that the next person to be taken away and killed would be the chief of the village. Some of the othe participants opposed this choice and one of them, the grandfather of the future victim, suggested the little T.O. to replace him. His proposal was accepted. On the 5th of November, the four villagers, three men and a woman, carried off the little girl, whom they murdered four days later. After having killed her, they proceeded with the excision of the genital organs and the anus, these being meant to serve in the manufacture of a concoction intended to drug the next victim. It states in the official report, re-transcribed by Fattah, that this murder was part of the settlement of a macabre debt between two clans, the chief of the village having already handed over five members of his family. During the trial, in 1967, three of the four accused, the woman having died before her trial, were sentenced to 15 years of hard labour.

The second case concerns an accusation of poisoning. The incident took place in March 1972, in a village of the Divo region, about 200 kilometers from Abidjan. On March 4th, at three o'clock in the morning, N.T., who was suffering from no apparent malady, died after vomiting blood. According to Gouro custom, the wife of the deceased was asked the cause of her husband's death. She declared that he had been poisoned by Baoulé

enemies, with whom he had been drinking that evening. The body was buried and the family of the dead man made a list of demands, as compensation, so that the matter could be settled amicably. This list included a large amount of money, some cattle and several cases of alcoholic beverages. The alleged criminals, however, refused to pay, saying they were innocent, and the supposed homicide was brought before the courts.

If a complaint had not been made, these two cases would never have come to our knowledge and the facts wuld have been kept secret by the villagers. In the first case, the woman involved was a notorious sorceress and, when arrested, confessed to having previously killed five persons. For this village alone, and for this single accused, these are five murders that were hidden from modern justice. In the second example, the refusal to pay the "wergeld" forced the accused to appeal to the courts. This could have been motivated by the fear of reprisals, for the court records mention an ethnic conflict in this village between Gouro and Baoulé. Whatever the case, the cultural traits proper to the traditional mentality and the basic objectives underlying the customary law lead us to believe that the criminality reported, especially that in rural areas, represents but a tiny tip of the iceberg. It is therefore difficult to assess the true volume. We can only do so indirectly through research on the attitudes of the people towards the ancient juridic systems.

A study conducted at Ibadan, a large Nigerian city, by Oloruntimehin (1973), as well as a survey done at Abidjan in March 1974, give us some indication of the degree to which the population resorts to customary justice.

A comparison of the two studies is interesting because they deal with almost the same problem, but in two very different urban milieus. Ibadan is considered a traditional type of city, for, contrary to Abidjan, the population there is ethnically homogeneous. The majority of the inhabitants are Yoruba, most of whom are natives of the place and are engaged in agriculture, native crafts and small trade. Many clans still live according to the model of the extended family, which consists usually of 20 persons or more under the leadership of a patriarch. Abidjan, on the other hand, which has a million inhabitants, is a modern city comprising a highly complex mosaic of more than 160 different ethnic groups. Half of the population is composed of Africans who come from countries other than the Ivory Coast, mostly young people who experience great residential and professional uncertainty.

In these two cities, a sample of the population (120 persons in Ibadan; 1,000 in Abidjan) was questioned as to the attitudes toward legal procedures, namely, whether the customary method (amicable settlement by neighbours, heads of family) was generally preferred or the official method (police and judicial courts) for the resolution of litigations concerning infractions. The two studies having been done without consultation between the researchers, the questions asked are different. On the other hand, they overlap and complete one another, making it possible to get a more global view of the general attitudes.

The work done by Olorutimehin is limited to certain infractions: assault (not accompanied by serious bodily injury), brawls, gambling and

theft (not involving large sums of money). We have grouped the principal results of the study, according to the author's classifications, in Table 1:

- young (20-35 years of age) - old (40-65 years of age);
- upper class - 15 years of schooling and an annual income of at least 700 lbs sterling;
- lower class - less than 12 years of schooling and an income of less than 400 lbs sterling;
- sex.

Table I

Recourse to traditional or modern procedures according to social status, age and sex, in Ibadan, for assaults, brawls, illegal betting and theft
Oloruntimehin (1973)

	Informal settlement		Legal Procedures		TOTAL	
	Number	%	Number	%	Number	%
Upper class	33	82.5	7	17.5	40	100.
Lower class	37	92.5	3	7.5	40	100.
TOTAL	70	87.5	10	12.5	80	100.
Old	20	100.0	0	0.0	20	100.
Young	17	85.0	3	15.0	20	100.
TOTAL	37	92.5	3	7.5	40	100.
Men	36	90.0	4	10.0	40	100.
Women	37	92.5	3	7.5	40	100.
TOTAL	73	91.25	7	8.75	80	100.

The figures obtained indicate that 82.5% of the members of the upper class and 92.5% of the lower class show a marked preference for the informal methods of settling disputes. It seems, then, that for the offences mentioned above, the majority of the elite, although a degree less than the small wage-earners, are against the interference of the police or judges in minor infractions. As could be expected, the elderly, more conservative and conformist, (100%) are more unwilling than the young (85%) to use the institutionalized justice system. As far as sex was concerned, there was no difference. Whatever the age, sex and social status, the outstanding preference was for settling all disputes at the family level or within the tribe, according to custom; that is, provided the damage suffered as a result of the assault, brawling, debt or theft was not too great or too visible. Unfortunately, this enquiry did not include the more serious infractions. Given the cultural homogeneity of the population and the structural hierarchy of the family sub-groups, these must often enough give rise to parleys according settlement and compensation.

In our survey of the Abidjan sample, we tried to establish a list of infractions, which, according to the persons interviewed, because of their type and degree of gravity, could be settled out of court. The questions were designed to determine the frequency of recourse to arbitration and conciliation measures as well as the nature of the offences concerned. This investigation led us to the conclusion that the customary juridic systems, in West Africa at least, were far from being declining institutions.

The infractions submitted to traditional justice

The study done by Oloruntimehin (1973) was limited to a few minor infractions. Ibadan being a mushrooming city where the citizens seem to have preserved the rural customs, institutions and reactions more than the people of Abidjan, the result is that, whatever the age, sex and social class of the persons questioned, 82.5% and more, according to the categories previously cited, admitted that for the infractions in question they preferred to settle their disputes by informal methods: either through the mediation of neighbours, of family chiefs or through other non-institutional channels. In Abidjan, for 61.9% of those interviewed, it is better to settle things amicably, even if this is not altogether satisfactory, than to go to the police. On the other hand, these same persons - 79.9% - believe that in the rural milieu, "regardless of the gravity of the act" committed by a member of the same village, it is still preferable to try to settle the case amicably between the families than to have the police intervene. These data prove that traditional justice serves as an outlet for a good many disputes. However, this hardly gives us any information about the jurisdictional limits of these juridic systems. What must we understand by "regardless of the gravity of the act"?

The data of the survey made in the Ivory Coast show that 12.2% of the Abidjan smaple claimed that, in the villages, when an offence had been committed, it is always settled according to customary procedures. We were able to verify that, for this part of the population, a minority but a relatively large one considering what is involved, the ancient law and the system conceived to apply it, could even today pronounce judgment on

the most serious crimes: legal homicides (of thieves, adulterers, sorcerers), murders, rapes, infanticides and all the other acts disapproved of by a given ethnic group. The data is presented in Table 2.

Table 2

Criminal cases where family solidarity prevents the betrayal of a member of the same village to the police or constabulary
Abidjan 1974

Type of Infraction	%
Never	3.7
For minor offences	69.2
For thefts and acts against property	14.0
For all crimes, even the most serious (thefts, murders, rapes, burning of crops, etc.) if the family of the guilty person pays the price demanded by the family of the victim	11.1
No reply	2.0
TOTAL:	100.0

Minor offences (petty thefts, fraud, brawls...) seldom go beyond the confines of the village. One of the obvious reasons is the disproportion between the damage sustained and the inconvenience involved in lodging a complaint with the state agencies. For the moment, we simply stress the fact that ethnic solidarity seems to be loyalty towards the members of one's group, so that to take a fellow member to court is felt to be an affront, a betrayal. This reasoning also obtains for the most serious crimes, but, in these cases, the difficulty of concealing them and, should

the matter become known to the administrative authorities or the penal agencies, the risk of being accused of complicity or obstructing justice etc., forces a break with the ancient juridic systems and the "handing over" of the authors of acts that are too conspicuous:

> In the region of Agboville where I worked, a judge told us, complaints between members of the same village or against those of a neighbouring village are very rare. If a charge is laid, the family will intervene to have it withdrawn. By preference, the chief of the village is consulted (...). If someone takes a person to court, he exposes himself to revenge. Later on, when a member of his family does something wrong, he in turn will be taken before the judge.
> While I was there, I learned one day that, in the village, a young girl was the victim of statutory rape. As a result of this attack she was no longer able to conceive. It was therefore a serious crime and liable to a long term of imprisonment. The guilty man was not prosecuted, however, lest it create a precedent and if, in the future, someone in the victim's family were to do the same thing, he would be brought to trial before an authority outside the village.[1]

On the basis of his reasoning, it appears that the judicial system is seen as something belonging to an outside group. What prevents the reporting of a criminal act is a refusal to entrust a domestic problem to an authority outside the tribe. To take it to the judge or the police is to recognize their authority and submit to it, while at the same time, it means encroaching on the prerogatives of the traditional chiefs or Elders whose prestige, which they jealously guard, would be put to scorn. To

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1. Evidence of B.A., Judge in the bush country, Ivory Coast, 1975.

resort to the modern justice would be to deny the autonomy of the clan, and would evoke a negative reaction on the part of the group. Anyone responsible for the intrusion of modern justice in conflicts considered "internal" by the community becomes guilty of an "infraction" and must expect that, sooner or later, according to the law of retaliation, he will be repaid in kind. The harm, socially, is that, in many villages, this situation can cause a confrontation between two families or two clans:

> Among the Attié, where I live, one of my parents had a fight with a cousin. He was badly injured and unable to work for 15 days. If the case had been taken to court, the author of the injuries would certainly have been convicted, but then there would have been a conflict between the two families. The case was therefore settled at the village level.[1]

More serious cases elicit the same reactions in groups where the stable relations between relatives and in-laws hardly ever suffer the ill will that can arise should the judicial apparatus be set in motion against a member or segement of the community:

> In my village (near Alepe), one of my cousins, who is a farmer, decided to go into the manufacture of palm wine. His enterprise proved profitable and prospered so rapidly that it roused the envy of a neighbour. The latter, in revenge against my cousin's success, emptied a very strong insecticide into the wine bottles that could have killed not only my cousin but anyone who might have drunk this wine. Fortunately, my cousin recognized the odour of the chemical because he used this insecticide himself on his plantation. After an investigation, he obtained proof that M.J.

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1. Evidence of Y.P., Judge in the bush country, Ivory Coast, 1975.

> was the author of the attempted homicide and he preferred a charge against him before the court. There was a general commotion in the village. Victim though he was, my cousin was accused of wanting to injure the other family. Everyone was in league against him. Finally, he had to withdraw the charge because his situation in the village became intolerable; no one wanted to buy his palm wine any more, and so his little enterprise ended in failure.[1]

The existence of two legal systems, the one unified, centralized, coercive and obligatory, the other more accessible, comprehensible and popular (although illegal), creates the possibility of a choice for the people between two different ways of having their rights respected. The choice is motivated by a variety of factors: the reactions of one's group; the probability that the infraction or crime will be discovered by the police; the gravity of the offence, its visibility; the possibilities of getting compensation and satisfaction. It is certain that if they were not in fear of the police, the African populations would persist more in carrying on their traditions.

The differential absorption of infractions, according to their nature, by traditional and modern justice

Cultural and contingency factors govern the choice in directing infractions towards one justice system or the other. Also, the nature of the crimes and offences no doubt has something to do with a group's decision to deal with cases of delinquent behaviour themselves or refer them to the police or the courts.

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1. Evidence of H.D., High Magistrate at the Abidjan Court, 1973.

To study this process, a list of 22 infractions, concisely described, was distributed to 1,000 persons, a representative sample of the African population of Abidjan. For each infraction, the persons interrogated had to say what the people's reaction would be. This could be one of the following two reactions: a) inform the police and constabulary in order to have the guilty person judged by the modern courts; b) settle the dispute amicably between the victim and the author of the offence (or between their families) in order to obtain compensation without the intervention of the police.

The infractions and crimes were chosen with the object of ascertaining the influence of the variable "ethnic cohesion". For this reason, similar conflictual situations were included sometimes involving members of the same group, sometimes foreigners. The gravity and traditional nature of certain acts were also important elements that guided the choice of the infractions. To establish our list of criminal acts, we based ourselves on the HVS questionnaire of De Boeck; we were able to obtain a copy before his study on the moral system of the youth in Zaire was published (1975). This questionnaire is made up of 162 items including a description of 62 attempts against persons, 54 against property and 46 against morals. The items were designed to vary the components relating to the nature of the act, its author, the victim and the consequences, the task given the subjects was to evaluate the moral gravity of these 162 types of conduct on a scale of 11 categories (from 0 to 10).

We have already given the results of the Abidjan sample's answers to the questions regarding the frequency of recourse to native laws and

procedures as well as on the types of infraction to which they were applied (Table 2). They show fairly stable percentages, respectively 12.2% and 11.1% of the 1,000 persons interviewed who believed that the villagers always call upon the ancient juridic systems, no matter how grave the injury involved. When precise situations, such as described in the list of 22 infractions, were submitted for evaluation, with only one exception, we obtained a greater proportion of persons who believe that disputes, at the present time, are resolved according to customary procedures, without the police or the constabulary being approached.

The cases of litigation presented in the sample, and the tendential models they evoke, show three types of reaction relative to the nature of the disputes. These are: a) crimes and infractions the majority of which are dealt with outside the official channels of the justice system; b) conflicts that give rise to mixed reactions, that is, the persons questioned are divided into two groups, some favouring the traditional justice, some the modern justice; c) disputes which, according to the majority of the respondents, are directed towards the government agencies (police, courts). To simplify the analysis of the data, by basing ourselves on the percentages, we shall proceed with a classification of the items in decreasing order so that the significance of the number of respondents who declared that the infraction described was referred to the ancestral juridic courts will emerge.

A - Infractions which, by preference, still come under the jurisdiction of the traditional authorities

This first category of infractions includes litigious situations which, for 60% and more of the sample, are dealt with by amicable settlement between the victim and the author of the offence or between their families. There are five infractions or crimes, which, for more than 600 of the 1,000 persons questioned, are not reported to either the police or the constabulary. They are the following:

	% T.J.[1]
1 - A married man makes a young unmarried girl pregnant:	81.7
2 - A neighbour's cattle destroys a farmer's crops:	74.1
3 - In a village, a man surprises another man committing adultery with his wife:	70.7
4 - Someone learns that one of his cousins has stolen 5,000 francs from a person of his own village:	69.1
5 - A husband, through sorcery, kills a man who had committed adultery with his wife:	62.6

B - Infractions giving rise to mixed reactions and which, depending on the case, are referred to either the traditional or modern justice

Seven cases (items 6 to 12 inclusive) create a fairly balanced dichotomy of the participants in the enquiry. From 44% to 59% tend to believe that sometimes the guilty person is brought before the customary authorities, sometimes before the government courts. The offences are:

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1. Percentage of those interviewed who consider the infraction the province of traditional justice (T.J.).

	% T.J.
6 - A person of the same ethnic group rapes a young woman of his village who refused to have sexual relations with him:	55.6
7 - A young man steals a transistor from a person of his village:	54.4
8 - Two cousins are in love with the same woman. One succeeds in marrying her. Jealous, the other takes vengeance by setting fire to the former's crops:	54.1
9 - While her husband is away on a trip, a woman commits adultery and becomes pregnant. In order to avoid her husband finding out, she has an abortion:	53.7
10 - The herd of cattle of a nomad tribe destroys the crops in a village:	51.2
11 - A stranger forces a young woman to have sexual relations with him:	45.8
12 - A woman gives birth to a child without arms or legs. She gives it something to drink which kills the child:	40.1

C - Infractions the majority of which are referred to the police and the courts

These are infractions which less than 40% of the sample said were subject to arbitration. There are ten which, in proportions from 62% to 94.3% - according to the respondents - are subject to a charge being laid before the police or the courts.

	% T.J.
13 - During a traditional feast, a violent dispute breaks out between two persons of the same village. One of them takes a machete and seriously injures the other's hand:	37.8
14 - A stranger breaks into a hut and steals a loincloth:	35.9

15 - A man loses his son. The medicineman tells him that his son died because he was bewitched by a sorcerer. The father poisons the sorcerer:	35.7
16 - During an accident, a man driving an automobile kills one of his cousins:	28.7
17 - During a hunt, a villager kills one of his companions by accident:	24.8
18 - A stranger who had drunk too much hits another with a machete and seriously injures his arm:	22.6
19 - In a village, a pregnant woman asks a friend to give her an abortion. This woman set about it in the wrong way and, without wanting to do any harm, the former dies:	22.1
20 - A husband poisons a man who had committed adultery with his wife:	18.1
21 - A merchant sells goods of poor quality:	17.0
22 - A stranger loses control of his car and runs over a villager; the latter dies:	5.6

The people's reactions to crimes and infractions were grouped together in three categories, situated on a continuum which presents no sharp differences. On the other hand, and this is very important, it is not only the variable "gravity" of the conduct that influences the choice between traditional justice and modern justice. A comparison with De Boeck's research, although it is not too clear, at least suggests this.

Certain acts, in the questionnaire used at Abidjan, had been formulated in identical or equivalent terms to those that De Boeck used for his study of the moral system of Zaire students (1975). It was found that if we take as a global index of gravity the median of his scale in 11 points, there is no very strict relationship between the repulsion caused by an act and the choice of the juridic system it should be subject to.

For example, for his student population, adultery with a married woman, that we find classified in category (A), is seen as more serious (Md: 9.02) than a father's murder of a sorcerer responsible for the death of his son (Md: 8.66), placed in (C) by the Abidjan sample, but less serious than all types of rape (Md varying from 9.65 to 9.73) which is found here in category (B). Manslaughter by a motorist, in (C), is judged with more leniency (Md: 6.17) than infanticide in the case of a deformed child (Md: 8.83) or abortion (Md: 9.60) which, according to the classification used, are both in (B).

The nature of the crime or infraction, in itself, is not the sole major element in the decision to settle a dispute according to custom or refer it to the justice agencies. "Social cohesion" seems to be an equally important element. It would have been most interesting, in the study of De Boeck, to verify the influence of the "structural distance" of the persons concerned on their perception of the gravity of the behaviour. It is surprising that the author, who took into account numerous variables relating to the act, the guilty party, the victim and the consequences, did not apply the criterion of the social status of the protagonists in a dispute. This criterion, according to the data gathered among the Abidjan population, has a direct influence, for certain infractions, on the choice of jurisdiction to which the case is referred.

We note that the destruction of crops by a neighbour's herd of cattle is settled amicably for 74.1% of the subjects, whereas when the same damage is caused by the cattle of a nomad tribe, the percentage who believe the matter is settle by arbitration falls to 51.2%. Theft offers

a good example of the impact of the relationship between the guilty person and the victim on the society's reaction: traditional justice is favoured by 69.1% for theft between cousins (item 4) by 54.4% for theft between fellow villagers (item 7) and 35.9% if the offender is a stranger (item 14). A difference of 10% emerges in situations of rape between individuals of the same ethnic group and persons who are not related. Discrimination exists as well for assault and battery (items 13 and 18) where there is a difference of 15.2%, as well as for manslaughter by motorists (items 16 and 22), where it is 23.1%. After all that has been said about ethnic solidarity, it is not surprising to see it emerge in the form of an effective and centripetal pressure that keeps the administration of justice within the framework of customary law.

Social cohesion, however, is not the entire explanation. In addition, according to certain cultural values, it is advantageous that the litigations, because of their nature, be the subject of parleys because they provide compensation that the penal code does not always guarantee. This is the case for adultery and rape: items 1 and 3 in category (A), and in category (B), items 6, 9 and 11.

Furthermore, it seems that the conspicuousness of the offence, that is, the possibility that it may be discovered by the police or the constabulary, influences the decision whether or not to report it to the agencies of the justice system. The distinction, rather unexpected, between homicide by sorcery (item 5) and homicide by poison (items 15 and 20) can be understood by the differences in the probability of discovery

of the cause of death: poison leaves traces that can be detected by autopsy, which is not the case, in the people's minds, for murders committed from a distance by sorcerers and "devourers of souls".

We see, too, that crimes that can be more easily camouflaged, such as abortion (item 9) and infanticide (item 12), both remain the "women's secret" and are less often reported to the judicial authorities than infractions that leave visible marks and injuries, like brawling and fighting (items 13 and 18) or bodies that are too difficult to hide as in the case of fatal accidents (items 16, 17, 19 and 22).

Reasons for the survival of the traditional justice

To ascertain the causes behind the survival of the customary justice, the question was frank:

> What, in your opinion, are the main reasons that, under certain circumstances, prompt people to settle disputes between families rather than call upon the police or the constabulary?

The answers to this question were separated into groups so that they could be weighed. This was done by keeping the largest number of reasons possible (in this case 20) which were classified under four headings: a) minor disputes; b) deficiencies of modern justice; c) family solidarity; d) others. Table 3 shows the results obtained. The analysis of this table will be limited to the first three headings.

Table 3

Reasons for recourse to common law justice
Abidjan sample: 1974

Reasons	Number		%
1 - Minor disputes	301		30.1
2 - Reasons for rejection of M.J.*	126		12.6
*M.J. too costly		42	
M.J. too slow		35	
To avoid prison		26	
Corruption of the police		13	
Policemen a source of trouble		5	
Fear of becoming involved in M.J.		3	
Brutality of the constabulary		1	
M.J. too far away		1	
3 - Family solidarity	491		49.1
Solidarity with one's own		173	
To maintain good feeling		122	
Out of pity, out of charity		48	
To avoid vengeance		46	
To avoid shame, dishonour		39	
When the guilty person is repentant		22	
To maintain family ties		17	
To obey the customs		14	
When there is agreement concerning compensation		10	
4 - Others	58		5.8
The traditional justice is more comprehensive		31	
Amicable settlement should be tried before going to the M.J.		20	
Everything should be reported to the police		7	
5 - No answer. Do not know	24		2.4
TOTAL	1,000		100%

* M.J. = Modern Justice.

Minor dispute

Among the reasons given for settling a difference through the traditional courts, 30.1% of the sample mention that the law of the native populations only applies to minor disputes. Thus the concept of "gravity", like that of crime, is relative since it is defined by the values of a given social group. The proof of this is that, of the 20 situations presented to them, 15 were considered, by 35.7% and more of the persons questioned, proper for settlement by customary methods. And these 15 situations include crimes as "serious" as the poisoning of a sorcerer (which 35.7% said is resolved out of court) as infanticide in the case of "a serpent child" (40.1%), rape by a stranger (4.8%), abortion (53.7%), rape by a member of the same ethnic group (55.6%), murder by sorcerer (62.6%), adultery with a married woman (70.7%) and with an unmarried girl (81.7%).

When Africans speak of the "gravity" of an infraction, to what are they referring? There is certainly some ambiguity there which perhaps leads them to define certain acts as serious, which in their opinion ought to be resolved within the ethnic group, but cannot be because they are too conspicuous, and also because of the importance given them by the legislation in sanctioning them by very severe punishment. Between the emergence of a law proper to the urban milieu, of a single system of norms recognized by the administration, and the non-recognition by the State of the ancient juridic systems, there has been a sort of "judicial void", as Balandier (1971) put it, that prompts the prudent choice of a judicial court so as not to "betray" the group or expose it to legal prosecution.

Deficiencies of modern justice

The second type of reasons for favouring the ancestral juridic systems has to do with the attitudes of the African population towards modern justice. These attitudes, because of the nature of the questions asked, appear solely in negative terms and concerns, not the agencies and agents, although this aspect emerges in 4.8% of the answers (aversion to prison, corruption, brutality, fear), but its inaccessibility because of the cost, slowness and distance (7.8%). The persons questioned were living in Abidjan, an urban centre where the geographic distances between the citizens and police stations are much shorter than those in the rural regions. This element, therefore, was scarecely mentioned, whereas in the bush it is a determining factor.

On the other hand, the cost and delays of the official system, even in the cities, are considerations that the citizens must take into account. They prefer to go to the unofficial authorities whose intervention is practically free and most of the time swiftly brought to a conclusion. These two characteristics, cost and dispatch, which differentiate the modern and traditional justice systems, are mentioned by 7.7% of the respondents. The main advantages of the customary court are that it is easily accessible (disputes are settled within the family, the clan, village and tribe), not cumbersome (no professional lawyer or counsel) and prompt, since a litigious situation cannot be allowed to deteriorate, become aggravated and spread further. These are cultural reasons that point up the inadequacies of the modern system as opposed to the ancient systems.

Family solidarity

Half of the sample (49.1%) referred spontaneously to loyalty to their group to justify their adherence to tradition in the matter of resolving conflicts. The reasons advanced indicate traits of the traditional mentality which were abundantly described in the preceding chapters: loyalty to one's own; the need to preserve good relations and avoid vengeance, shame and dishonour; the obligation to obey the customs. In effect, it is a question of family and clan solidarity as well as the function of justice as a vector of reconciliation within the confines of the ethnic group. A Congolese proverb reminds us that group solidarity implies a responsibility that goes beyond that of the individual guilty of a wrong: "If a finger is injured, the others will also be stained with blood." Houyoux (1966) interprets it thus: if one person does wrong, all his relatives and friends will be considered responsible as well for the offensive act.

These elements are all the more significant of the resistance of the values and the cultural-sociological architecture of the ancient African civilizations, in that the nature of the sample indicates a fairly high rate of urbanization among the persons composing it. Although at the time of the survey we have 2.9% of those interviewed who were living in the Ivory Coast capital for less than a year, and 35% from one to five years, we find 5.3% who were born there, 25% who were living there from six to ten years and 31.9% for more than ten years. In all, almost two thirds (61.9%) had experienced urban life for more than five years (not counting the large number of new city dwellers in the smaller cities that

serve as stopping places along the road of the rural exodus where people become acclimatized to urban life). This fact, then, gives an indication of the vitality and will to survive, even in a highly urbanized environment, of the institutional structures that are built on family ties or mythical bonds.

If at the present time the two systems of justice function in a parallel manner, it is because there is an ontological incompatibility between them. The first is turned toward the original myth, the Cosmos as it was conceived by the ancestors and whose order can be preserved only by being faithful to the rules handed down by past generations. The second is oriented towards immediate security in the desire to prepare for the future, the world of tomorrow. Alliot (1968) believes that adherence to the past and security in the present are often incompatible. He adds:

> The major difference is a difference of mentality: developed at different levels of thinking, the concept of customs and that of laws are irreconcilable. As long as the first continues to exist, that is, that acculturation is not achieved, the heterogeneity of the two juridic systems cannot be eliminated. (p. 1, 191).

If by coercion the states try to oblige individuals and groups to abjure the past and submit to the new social order, a certain osmosis between the two juridic systems will inevitably take place. But we must not think that the transfer from one to the other will be achieved at the pace of a Brownian movement. On the contrary, it is only by a logic that weighs and considers all the advantages and disadvantages that one can apportion what will be referred to one or the other system.

doubtful, the rate per 100,000 inhabitants was 7,500 for Canada, 4,171 for West Germany, 3,277 for France, and from 2,000 to 3,000 for Norway, Italy, Holland and the United Kingdom. Spain, on the other hand, had a rate of only 726 per 100,000 inahbitants. In the African countries, for which we have any data, the rates between 1970 and 1972 were about 2,231 for Zambia, 1,267 for Tanzania, 1,072 for Ghana, 906 for Malawi, 874 for Uganda, 553 for the Cameroons, 874 for Kenya, 266 for the Ivory Coast and 107 for Zaire.

The crime statistics have little comparative value and can hardly be used without a knowledge of exactly what they cover. Nor can the meaning of figures as imprecise as those of Interpol be taken seriously or conclusions drawn from them as some authors have done. This is especially the case for Hassenfratz who reached the conclusion that criminality, in certain African countries, and particularly in the Ivory Coast, is "underdeveloped" (1974, p. 27). Under-developed compared with what? And what criminality is he talking about? In effect, in spite of the relatively low national rate in Black Africa, the crime in certain states is much more widespread than one might think because the "known" crime is concentrated almost exclusively in a few large urban centres.

In 1967, in Liberia, 75% of the crime was centralized in Monrovia and its outskirts (Zarr, 1969). In Uganda, in 1969, a quarter of the crimes were committed in Kampala, a city of 333,000 inhabitants, hardly 3.5% of the total population. If the rate of national crime was 874, that of the capital of Uganda would amount to 6,565 infractions per 100,000 inhabitants (Clinard and Abbott, 1973). In the Ivory Coast, where in 1971 the rate of crime was 430 per 100,000 inhabitants for the entire territory,

Chapter V

Juridic acculturation and its influence on reported crime

> It is neither a question of becoming a museum piece nor plunging into modernism regardless, but of finding a new law born of tradition, enriched by modern law, while taking heed of the rules of Africanism, essentially of a spiritualist nature (M'Baye, 1970).

It is undeniable that in the African states, the figures in the data on infractions, offences and crimes are still more problematical than in more developed countries. The illegal acts "reported" and "known" by the agencies of social defence are recorded less accurately, less systematically. Despite their imperfection, however, as Robert (1977) says, the statistics make it possible "to evaluate the justice system by its results since these are fundamentally an account of its production" (p. 22). And in this area, Africa offers an advantage over the industrialized nations, making it possible, because of its accelerated pace, to visualize much more concretely the process of establishing a state system of social control (which conveys the norms and values of another culture) and to measure the results.

The consequences of establishing modern systems of justice

Compared with more developed countries, the indices of criminality in the African states seem relatively low. In 1972, according to Interpol's statistics (P.I.P.C., 1971-1972), whose reliability is very

it reached 1,037 in Abidjan, an urban centre which alone had 34% of the total number of crimes. The same thing is true of Senegal. According to the statistics of 1972, 44% of the crimes reported or discovered were committed in Dakar, the Senegalese capital, and 66% in the other large cities, namely, Kaolack, Thiès, Saint-Louis, Ziguinchor and Diourbel.

Crime statistics have meaning only in relation to the justice system. It is to be expected that, as modern justice takes over and controls what used to be dealt with by traditional justice, and still is to a large extent, there will be an increase in criminality. The comparison between Tanzania and the Ivory Coast speaks for itself. The rates of crime, in 1970, were 1,072 and 433 per 100,000 inhabitants respectively. Does this mean that, all proportions considered, the population of Tanzania is two and a half times as delinquent as that of the Ivory Coast? Actually, the difference in the rates of criminality seems to be due more to the type of judicial organization than to different criminogenic conditions. In Tanzania, after the independence, the common law courts had been integrated in the judicial system as courts of first instance. Thus there are nearly 900 of these, one for every 1,041 km^2. In the Ivory Coast, where since 1946 all jurisdiction in criminal matters was taken from the traditional institutions, there are only 28 courts, one for every 11,518 km^2.

An analysis of the statistics, then, can enable us to evaluate the impact of modern justice on the criminal phenomenon. It seems logical to assume that, in the regions colonized in terms of the legislation, that the figures in the data reflect a criminality created on the one hand by

the new penal codes (by the criminalization of acts considered non-criminal by the population) and on the other, by an ever increasing absorption of deviant behaviour, which, through the pressure brought to bear by the administrative authorities, changes direction, turning from the traditional to the modern justice.

Relation between the increase in the number of courts and the rise in known criminality

DuBow (1973) notes that between 1945 and 1960, the number of criminal cases increased in Tanganyika (now Tanzania) by 85%. The author cites three main factors which, in his opinion, may have contributed to this increase. The first is the growth in the number of inhabitants. During this period, the surveys show that the African population of the country went from 7,404,517 to 8,622,684, an increase of 16.4%. This upward thrust of the demographic curve can explain part of the rise in crime, but not all of it. The second factor is the additional number of courts. In spite of the imprecision of the calculations, it is estimated that there were 800 local courts in 1951, and there must have been almost 900 in 1960. According to the various sources of information he consulted, DuBow thinks that the number of courts was increased by 15% in the 50s. The third factor he mentions is acculturation. With the establishment of judicial courts in the villages, often replacing the ancient institutions, and integrating them in the pyramidal structure of the criminal justice system, the native peoples became familiar with the new laws and procedures and, by resorting to them, began to recognize their usefulness. Their greater accessibility brought a better knowledge of the courts and,

consequently, a greater confidence in their role as instruments for the settlement of disputes.

In the Ivory Coast, we tried to analyze the same phenomenon, but by basing ourselves on the fluctuations in the rates of crime over time, and also taking into account the creation of new courts. This method of proceeding enabled us to reduce the increase in both population and infractions to a single index.

Table 4

Increase in the number of infractions known to the courts in relation to the demographic growth in the Ivory Coast

Year	Population	No. of courts	No. of cases in the Records of Complaints	Rate per 100,000 inhab.
1963	3,824,544	11	13,524	353
1964	3,939,281	24	16,231	412
1965	4,300,000	27	19,619	456
1966	4,453,400	28	22,373	501
1967	4,633,009	28	21,806	471
1968	4,809,063	28	23,324	485
1969	4,991,808	28	22,479	450
1970	5,181,497	28	22,460	433
1971	5,378,393	28	23,154	430
1972	5,582,772	28	22,869	410

The figures in Table 4 show a fairly large increase in detected and known crimes between 1963 and 1966. In actual figures, the number of complaints went from 13,524 to 22,373, an increase of 65.43% of reported criminality in three years. This rapid and spectacular jump coincides with the establishment of regional courts. In 1963, there were 11 correctional jurisdictions actively operating in the Ivory Coast; in 1964, there

were 24; in 1965, 27 and in 1966, the present judicial institutional framework was reached with 28 courts. The rise in the number of criminal cases seems, at least in some measure, to be due to the setting up of court branches, which brought the justice system closer to the people and added to the points of control and the absorption of criminality.

During this period of expansion, the rate of infractions per 100,000 inhabitants rose very sharply, going from 353 to 501. From 1967, with no new courts being created, there was a drop in the rate, slow at first, then rapidly falling from 501 to 410. Since then, despite the demographic growth, the number of crimes and infractions remains stable, averaging 22,645 per year.

From 1966 to 1972, the drop in the rate per 100,000 inhabitants represents a reduction in known crime of 18%. Furthermore, contrary to what is happening in Tanzania, it seems that the population has not adopted modern criminal justice. Its remoteness, geographically and culturally, and its inertia in terms of its hold over the crime situation, seems to induce the people to continue to resort to the ancient institutions, or to return to them once again.

This situation is undoubtedly more accentuated in the French speaking countries, because here the courts are more centralized than in the English speaking ones, which respected the local institutions a little more. In 1972, the rates of criminality per 100,000 inhabitants for Zaire (107), the Ivory Coast (410), Senegal (464) and the Cameroons (553) were much lower than those in Uganda (874), Ghana (1,072) or Tanzania (1,267).

This could be due, though it is hard to know to what extent, to the fact that the former French colonies have fewer courts; which means that they are situated farther away from the people.

In the Ivory Coast, in most of the jurisdictions, the seat of the court is in the capital of the region. Thus the three courts in the Ivory Coast are located in the most populous cities: Abidjan (750,000 inhabitants in 1972), Bouaké (150,000 inhabitants) and Daloa (50,000 inhabitants). Of the 25 regional courts, three are situated in cities of more than 40,000 inhabitants, two in those of 30,000 inhabitants, three in those of from 16,000 to 20,000 inhabitants, eight in towns of 10,000 to 15,000 inhabitants and nine in centres of 5,000 to 10,000 inhabitants.

The crime statistics, then, evidence above all a "Europeanization" or "westernization" of the criminal phenomenon to an extent where traditional crimes (those repressed by the common law codes and largely associated with sorcery and magic) remain beyond reach because the penal agencies are too far away. According to Tanner (1970c), in East Africa, where the courts of justice are much more widely scattered, it can be assumed that the majority of criminal cases outside the cities come from a radius of five miles from each bush court.

For all these reasons, it seemed necessary to study the location of the villages vis-à-vis the judicial courts. We calculated, for the year 1972, for each of the 28 jurisdictions, the number of villages situated at various distances from a court or a regional court. For the whole of the Ivory Coast, the average distance of the 8,300 villages we surveyed was 48 kilometers. Table 5 shows the distances separating the villages from the main courthouse.

Table 5

Distribution of Ivory Coast villages according to distance from a court or regional court (1972)

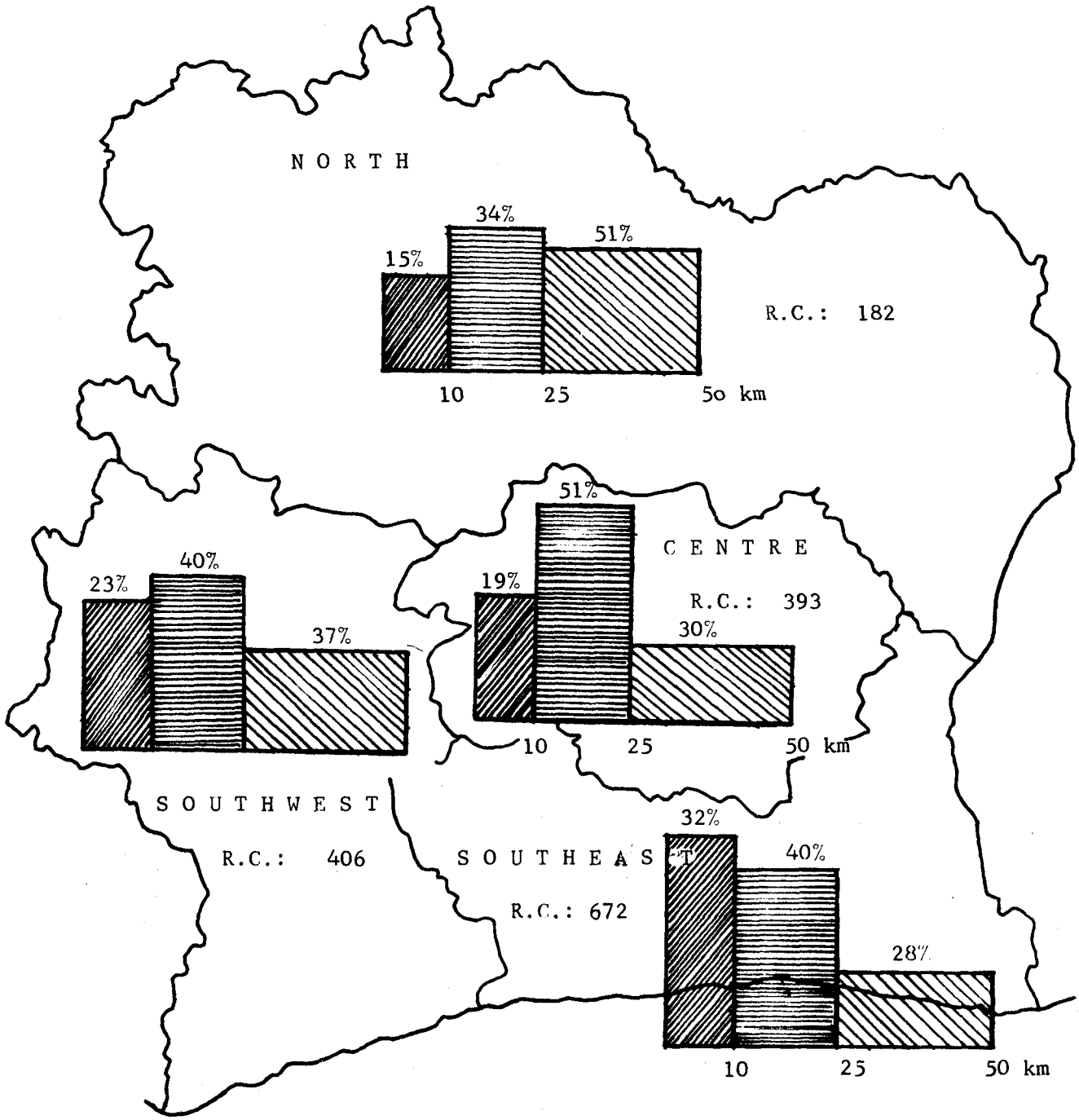
Distance	Number of villages	%	cum.%
less than 10km	677	8.15	100.00
10 to 25km	1,854	22.34	91.85
25 to 50km	2,757	33,22	69.51
50 to 75km	1,644	19.81	36.29
more than 75km	1,368	16.48	16.48
TOTAL	8,300	100.00	

Compared with the ancient tribal and ethnic organization, where each clan, each village, had its council of Elders, the organizational structure of the modern criminal justice placed the courts at a much greater distance from the people. This must inevitably have an effect on the number of crimes and infractions reported to the courts.

However, we must consider the crime statistics on the basis of their own representative value, which cannot be dissociated from either the spatial distribution of the agencies of social defence, or their true hold over the social situation.

For example, for the Ivory Coast, as shown in Figure 1, we note a direct relationship between the rates of criminality by region and the percentage of villages situated at least 50 kilometers from a court. As the proportion of villages situated within a radius of 50 kilometers from the courthouse increases, we see a rise in the rate of criminality. This parallelism is proven on examination of the data in Table 6.

Fig. 1. - Relation between the rates of crime and the distribution of the villages, in percentages, according to their distance from a police station or detachment of the constabulary, by region. The Ivory Coast, 1972.



R.C.: Rates of criminality per 100,000 inhabitants

Table 6

Relation between the rates of regional criminality and the proportion of villages situated at least 50 kilometers from a judicial court
The Ivory Coast, 1972

Region	Total no. of villages	Villages at least 50 km No.	%	Rate of criminality per 100,000 inab.
North	2,761	1,274	46	182
Centre	2,146	1,378	65	393
Southwest	1,664	1,141	69	406
Southeast	1,729	1,495	86	672
Ivory Coast	8,300	5,288	64	450

In the four regions, there is an almost equivalent number of villages situated within a radius of 50km from a court or regional court. It is therefore not the number of villages itself (it varies very little from one region to another: between 1,141 and 1,495) but their proportion that is relevant to the rate of criminality.

The lower the percentage of villages close to the courts, the lower the rate of complaints. The rate for the North is 46% of large villages within 50km of a court of justice and 182 complaints per 100,000 inhabitants; for the Centre 65% and 393; for the Southwest: 69% and 406; for the Southeast: 86% and 672.

Clearly, in a country where 70% of the population is rural, the factors of accessibility of the courts and police stations, the roads and transportation facilities, play an essential role in the source and number of infractions that reach the correctional agencies. If this is not taken

into account, there is a risk that the statistics will be analyzed subjectively and hypothetically, giving them much more significance than they really warrant. Hassenfratz (1974) explains the regional differences in the rates of crime and in the form it takes in the Ivory Coast:

> The disparity between the North and South of the country is probably explained by the economic backwardness of the swamplands, where the authority of the chief of the clan is rarely contested. The family controls and directs the behaviour of each of its members. In the South, industrialization, the exploitation of the forests and the extension of the plantations has caused an influx of foreign workers, and at the same time, disruption of the family and uprooting of its members. On the other hand, the dissimilarity between the West and the East is explained simply in terms of ethnic differences, the Krou, Guéré, Bété, Wobé, Yacouba and Dan being noted for their violent customs (pp. 35-36).

The actual reasons for the difference in the criminal phenomena geographically could very well be more matter of fact, that is, simply a function of the integration of the justice system in the various social milieus. A study of the relation between the number of police and constables and the volume of crime reported enables us to state this hypothesis more precisely.

Relation between the manpower of the police forces and known criminality

In Africa, where the agencies of modern justice are only now being established, it is easier to measure their impact on crime as it is being redefined under the new institutionalized social control, than in industrialized countries. In the latter, there are so many agencies that

marginal benefits, in terms of the greater effectiveness that the installation of new institutions (police stations, courts) brings, diminish more and more because of the costs involved. This is simply because the penal system, which depends on the public's reactions for its maintenance, comes up against another obstacle - public tolerance vis-à-vis deviance. No matter how great the effectiveness of the police, they can only apprehend behaviour the citizens consider intolerable, regardless of the law.

This said, it is clear, as Robert (1977) explains, that among the agencies within the criminal justice system, the higher institutions, even though each is specialized and autonomous, impose their own limitations on those in the lower echelon. Thus the space available in the prisons and penitentiaries influences the sentences of imprisonment handed down by judges; similarly the number of criminal cases the courts can handle influences the decisions of the police and constables. At every level of operations, discretionary power is exercised in terms of the margins of maneuverability authorized by the system of justice administration.

The activities of the police are dependent not only on those of the judicial courts but also on the physical and material conditions of work. In Africa, for example, a policeman will record a petty theft reported to him more readily if it took place near a police station than if he had to go 25 or 50 kilometers to register the complaint; he might then judge the case quite differently. It is the same for the people. As Tanner (1970c) assumes, a minor theft committed 15 kilometers from a police station will not always be reported, whereas a similar infraction committed 200 meters away most likely will be. In Uganda, where this

author did his research, the creation of a new police station immediately resulted in a substantial increase in the number of charges laid.

This increase is naturally expressed in a rise in reported criminality. It does not necessarily mean that the delinquent population has become more numerous. To think so would be an extreme simplification of a very complex process. Yet when it comes to interpreting the evolution of the statistical curves as a demonstration of the dramatic increase of African criminality, as most criminologists do, it is exactly this tendentious reasoning that implicitly prevails. Table 7, borrowed from Clinard and Abbott (1973, p. 16), gives us an example of this type of interpretation vis-à-vis the police statistics.

Table 7

Reported Crime Rate per 100,000 Population, Uganda, 1948 to 1968

Year	Population	Total Reported Crime	Rate per 100,000
1948	4 942 000	12 115	309
1955	5 950 000	27 376	462
1959	6 513 000	39 760	620
1964	7 367 000	48 830	664
1968	9 248 000	80 866	874

Note: Population for 1964 and 1968 represents estimated projections based on the 1959 and 1969 census Crime data from police reports.

Based on these data, Clinard and Abbott merely ascertained the obvious fact that the rate of crime almost tripled in the space of 20

years (1948-1968) going from 309 to 874 per 100,000 inhabitants. Indeed, the crime index rose by 78% between 1964 and 1968 because the volume of complaints made a giant leap from 48,830 to 80,866. These criminologists then conclude: "In fact, crime has continued to increase so much that by 1971, the Minister of Internal Affairs of Uganda stated that Uganda's crime rate was among the world's highest" (p. 16). Thus the authors corroborate their findings by citing the remarks of a high official. In reality, this declaration by a companion at arms of General Idi Amin Dada, who that same year, 1971, took power by a coup d'État, is in no way scientific. This takeover of power was justified, in part, by the inability of the former government to put an end to the wave of thefts and violent crimes that was sweeping the country. The argument, however, is but a political apology and should not even be considered.

Clinard and Abbott support the theory that in Black Africa there is a galloping inflation of crime and that this phenomenon is largely due to the accelerated economic development. Consequently, the crime is concentrated almost exclusively in the cities. And they perhaps unconsciously exploit the statistics to prove their statements. Thus, although the rate of criminality was 874 for the entire country in 1968, it was 6,565 for the city of Kampala alone. Nothing could be clearer than this example. What puzzles us, however, is that in this juggling with the figures, where in their study have the authors made any connection between the distribution of the Uganda police and the differences in the extent of criminality. In 1969, for instance, there was one policeman for every 1,300 persons throughout the territory and one for every 642 residents of

Kampala. This clearly indicates a connection between the concentration of police and the ability of modern justice to apprehend crimes and infractions.

There is a link, then, between the agencies for detecting crimes and the proportion of cases handled by the justice system. In effect, there are three different, but combined ways of acquiring clients. These are the mechanisms of "regulation", "indication" and "magnetism".

Through the mechanism of "regulation", modern justice is established as the sole instrument for the prosecution, judging and sanctioning of infractions. It seems to be the only alternative available for certain persons: for example, Europeans and foreigners who are in litigation with Africans, or Africans belonging to ethnic groups whose customary laws differ and are therefore unable to function for both parties.

Through the mechanism of "indication", the state will impose its own definitions of delinquency. Where there are differences and divergencies in the definition and perception of certain deviant acts between the modern and traditional ways of thinking (criminalization/decriminalization), the field of application of justice is changed, and at this level, it can be said that a criminal action has been created. But the justice system is not self-supporting; it depends on the active support or complicity of the population. If the latter, or a considerable portion of it, does not have the same view of what is criminal, as is the case in Black Africa, there will be a lack of collaboration on the part of the public. The people will not be likely to report acts that are prohibited

by law, but which are not contrary to their own norms and values. Also, the relationship between the establishment of the agencies of the justice system and the criminality should be interpreted both from the angle of ideological diffusion and acculturation - the sociological conditions inherent in economic development (industrialization, urbanization), and the circumstances under which the populations concerned use the government institutions.

Finally, through the mechanism of "magnetism", the new institution, its attraction strengthened by the coercive measures conferred by political and legislative power, will divert, steal and lure clients who were formerly subject to other systems or institutions. The people who will go to the police or the courts will be those who, given the alternative of western justice, will find it to their advantage to dispense with the traditional methods of settling disputes. There can be many reasons, from acculturation, the acceptance of the official forms of justice because legally imposed or more "civilized", to simply the search for personal advantage. This would be the case, for example, when the solution proposed by customary court did not satisfy the plaintiff or where there was the fear, felt by many citizens, of being prosecuted for illegal conduct.

In addition to courts directly available to the citizens, the close concentration of police forces is the greatest evidence of the possible hold of modern justice. By infiltrating the different regions of the national territories, they significantly enlarge the sources of supply of the courts, to which they direct reported criminal cases which in their

judgment, should be brought to trial. Symbolically speaking, the police and the constabulary are the tentacles of the judicial machine, and by strengthening and concentrating their forces, through the mechanisms of "regulation", "interpretation" and "magnetism", they can increase the potential number of crimes handled by the institutional juridic system.

Unfortunately, there is no research that would enable us to make comparisons. As we have seen, in Tanzania, the body of criminal cases increased by 85% between 1945 and 1960. This increase is partly due to the greater accessibility of the courts of justice, and probably recourse to a greater number of policemen as well. DuBow (1973) tells us that the police forces practically doubled between 1960, when they numbered 6,026 members, and 1971, when they reached 11,000. During this period, the number of cases reported to the police went from 92,852 to 152,029, a total gain of nearly 64%; a gain which, if we take demographic growth into account, and therefore the rates of crime, (which were 1,077 per 100,000 inhabitants in 1960, and 2,267 in 1970,) is reduced to a relative increase of 17%. Having no information on the assignment of policemen, it is impossible to know the results of their activities. On the other hand, the data we have for the Ivory Coast tell us the exact growth of the police forces and their impact on reported crime.

The police statistics of the Ivory Coast do not contain all infractions of the criminal law; some, such as infractions of the traffic code and customs regulations, etc., are not included. They are compiled along the same lines as those of Interpol, which cover murder in the first degree, sexual offences, thefts, counterfeiting and drugs. Since they

record only certain of the infractions, those most significant from the point of view of criminology, they naturally show fewer known crimes than those registered by the courts (Table 4). On the other hand, contrary to the judicial statistics which give no indication of the distribution for each court or regional court of crimes committed in urban or rural areas, the police statistics make it possible to observe the fluctuations of crime in the large urban centres and rural zones respectively. This is a tremendous asset.

A. Evolution of known crime in the urban and rural areas of the Ivory Coast

The police statistics of the Ivory Coast include those of the Criminal Investigation Department and those of the Constabulary. Generally speaking, the members of the Criminal Investigation Department are concentrated in the cities, whereas the personnel of the Constabulary are mostly assigned to the rural regions. The statistics of both together reflect the crime situation as it is known to the police forces in the cities and countryside.

Table 8

Evolution of known crime according to the police statistics of the Ivory Coast (1963-1970)

Year	No. of cases known to the C.I.D.	Constabulary	Total	Rate per 100,000 inh.	Index
1963	10,615	1,978	12,593	329	100
1964	11,437	2,110	13,547	344	105
1965	8,240	2,473	10,713	249	76
1966	9,585	3,076	12,661	284	86
1967	10,309	3,093	13,402	289	88
1968	10,419	3,371	13,790	287	87
1969	10,528	3,728	14,256	285	86
1970	8,295	4,221	12,516	242	74

The period covered in Table 8, from 1963 to 1970, shows a surprising stability in the number of criminal cases known to the police forces. The average number of complaints registered for the eight years is about 13,000 per year (for the infractions included in the statistics of the police and constabulary). It is possible, and more than likely, that the inability of the courts to absorb a larger number of offences has the effect of checking the activities of the police and constabulary.

This shows more clearly when the statistics of the Criminal Investigation Department are separated from those of the Constabulary. We then find differences in the evolution of reported criminality in the large urban centres and in the farmlands. Contrary to what might be expected, and even in spite of the economic development in countries in the process of industrialization, the figures show no rise in urban crime, and even a tendency to drop (1963: 10,615 infractions; 1970: 8,295) as against a gradual rise in crime in the rural areas (in 1963: 1,978 reports; 1970: 4,221). Here again, much of this contradiction must be explained by organizational, structural and operational factors within the criminal justice system. In other words, in the cities, the police become less and less effective, whereas in the country regions the constabulary spreads its net farther and farther and avails itself of the means necessary to increase its hold. Table 9 presents the same data, but shows the divergence of the police statistics and those of the constabulary.

What is striking in Table 9 is first the flagrant imbalance between the proportion of the urbanized population and its crime rate in comparison with the situation in the rural regions. In 1963, with only

20% of the country's inhabitants, the cities had a monopoly of 84% of the crime. With time, the number of city residents increased and, in 1970, whereas they represented 28% of the national population, their crime rate in comparison with the total was no more than 66%. The first conclusion must be that the agencies of the justice administration, by their nature and social role, have a much greater proportion of criminality to cope with in the city centres; it is here, then, that they should have the best possibility of fulfilling their allotted functions.

Table 9

Evolution of the rates of crime per 100,000 inhabitants for major infractions of the criminal law in the cities and rural districts of the Ivory Coast (1963-1970)

Year	Population	Cases known to the Police Forces	Rate per 100,000 inh.	Index
A. Urban Centres				
1963	764,909	10,615	1,388	100
1964	827,249	11,437	1,383	99
1965	946,000	8,240	871	63
1966	1,027,356	9,585	933	67
1967	1,115,709	10,309	924	66
1968	1,211,660	10,419	860	62
1969	1,315,862	10,528	800	58
1970	1,429,026	8,295	580	42
B. Rural Regions				
1963	3,059,635	1,978	65	100
1964	3,112,032	2,110	68	105
1965	3,354,000	2,473	74	114
1966	3,436,044	3,076	89	137
1967	3,517,300	3,093	88	135
1968	3,597,403	3,371	94	145
1969	3,675,946	3,728	101	155
1970	3,752,471	4,221	112	172

In the cities, where the mixing of ethnic groups makes the integral survival of customary procedures and laws more difficult, it is easier to have a new juridic concept accepted and to get the people to resort to the government agents of social control. It is in the urban milieus, the melting pot of the ancient institutions, where the westernizing of the way of life and thinking hides a mass consumer society, characterized by anonymity and a multiplicity of cultures and values, that the anomie is more intensely felt. In a situation of this kind the mechanisms of "regulation", "interpretation" and "magnetism" are more effective.

The second conclusion would seem to be that in these same cities, growing at an unprecedented pace, the police are unable to adjust to the meteoric urbanization and, to use a commercial expression, their "turnover" cannot keep up with the "clientele"; this is a sign of poor management, to say the least. The column of rates per 100,000 inhabitants, which in the space of eight years goes from 1,388 to 580 shows a decline of 58% in recorded infractions. In whole figures, these remain stable from year to year despite an annual increase of 8.6% in the urban population. From 1963 to 1970, the percentage of population growth in the cities is 87% whereas that of the number of charges laid during the same period drops by 22%. There are many factors responsible for this breakdown in the "efficiency" of the police. The first, as we have already mentioned, are the limits imposed by the courts themselves. The jurisdictions are urbanized in varying degrees. The urban population which is a minority, less than a third of the total population, is concentrated in only a few jurisdictions. Those of Abidjan, Bouaké and Daloa, although

they constituted only 17% of the national population, contained not less than 56% of the urban residents, and in terms of criminality known to the courts, they alone were responsible for 47% of the criminal cases brought to justice. It is in the urban jurisdictions that the judicial courts are so overburdened that the strain affects the activities of the police.

Another factor that explains the incompetence of the police forces is that their manpower has not been increased at the same rate as the demographic growth in the cities; in fact their number is decreasing in relation to that of the inhabitants of the large cities. This is evident in Table 10, showing the proportion of policemen per urban population.

Table 10

Evolution in time of the "police/urban population" ratio.
The Ivory Coast (1967-1975)

Year	Police personnel	Urban population	No. of residents per policeman
1967	1 495	1 115 709	746
1969	1 696	1 315 862	776
1971	2 039	1 551 922	761
1973	2 313	1 830 331	791
1975	2 585	2 158 685	835

Between 1967 and 1975, the population of the cities increased more rapidly (93%) than the personnel of the Criminal Investigation Department (73%). Thus, unless the growth of the police forces keeps pace with that of the citizens, the ratio of police per capita gradually drops.

Tanner (1970c) analyzed a similar situation in Buganda, where the proportion of police personnel fell behind that of the residents by 3.2% and resulted in a decline in known crime. Concerning the Ivory Coast which, year in year out, has 175 to 200 policemen, the stable number of reinforcements annually (stability conditioned by the capacity of the training centre) will accentuate the declining presence of the police, for they will become less and less numerous in proportion to the population. Thus for all the cities, we have one policeman for every 746 inhabitants in 1967, and one for every 835 in 1975.

Too few in number and poorly equipped for their jobs, the Ivory Coast police are reduced to a passive role and take action only on receiving a complaint or where a charge is laid. According to Hassenfratz (1974), and based on information given by authorities, the output of the police dropped 30% in ten years. This assessment is credible, for we were able to verify the fact that for the jurisdictions of Abidjan, Bouaké and Daloa, which are the three largest cities in the Ivory Coast, the rate of reported crime, as it appears in the courts' records of complaints, dropped by 22% between 1965 and 1972.

The situation is quite different in the rural regions. The population in these areas, in proportion to the total population, is getting smaller. In 1963, it comprised 85% of the inhabitants, in 1970, 75% and in 1973, 68%. Every year, the percentage of rural inhabitants is reduced by 1%. Contrary to the urban centres where the number of citizens increased in round figures by 93% between 1967 and 1975, the rural population grew by only 18%. Meanwhile, between 1965 and 1973, the number of

constables and detachments grew considerably, so that the "constable/rural population" ratio, in contrast to the urban milieu, rose as shown in Table 11.

Table 11

Evolution in time of the "constable/rural population" ratio
The Ivory Coast (1967-1975)

Year	Number of Detachments	Estimated number of constables	Rural Population	No. of rural inh. per constable
1967	73	803	3 517 300	4 380
1969	82	902	3 675 946	4 075
1971	88	968	3 831 273	3 958
1973	93	1 035*	3 993 876	3 859*
1975	95	1 140	4 163 380	3 652

* Figures verified and furnished by Delmas (1973).

It is possible for the constabulary to take stronger root (which is not the case for the police) because the rural population changes very little. On the average, it has a growth rate of 2.1%. In the wooded areas the rate is 3.4% and in the swamplands 0.05%. In 1964, the constabulary was composed of 63 detachments, each one having 7 to 13 constables, rarely more. The average, per detachment, was 11 constables. The estimates regarding the number of constables shown in Table 11 are based on this average. Apart from the figures for 1973, which were verified by Delmas, the estimates for the years before and after should have shown a more marked decrease and increase respectively since the National Constabulary School trains between 250 and 280 recruits a year. This means that

the number of rural residents per constable was much higher prior to 1973 and much lower during 1974 and 1975. The figures presented, which attest to a constant diminution in the number of inhabitants per constable (4,380 in 1967 and 3,652 in 1975) are therefore conservative; they nonetheless show that the rural population is more and more surrounded by installations of constables.

The expansion of the constabulary in the rural zones, then, has proven advantageous. Between 1964 and 1975, 32 detachments were created throughout the national territory. Each time a locality receives a detachment, a new area is tapped, and the distances between the villages and modern justice are often reduced by half or more. This closer proximity of the justice system enables it to at least have criminal cases referred to it, which, for reasons already mentioned, are difficult for the customary courts to settle. It is not surprising, therefore, to see a rise in rural criminality, due to the people's transfer of legal disputes from the traditional courts to the official system of social control. This criminality of the bush country, in spite of everything, remains relatively moderate, making it possible to measure the resistance of the people to mechanisms they do not understand or that do not respond to their aspirations.

The deployment of detachments in the bush country has appreciably lessened the distance between the villages and the representatives of law and order and consequently has facilitated the detecting or reporting of crime. Whereas the police have not succeeded in reinforcing their position in cities, the constabulary is constantly tightening its hold in the

rural regions. Two detachments were created in 1964, five in 1965, three in 1966, five in 1967, four in 1968, three in both 1969 and 1970, one in 1971, four in 1972 and two in 1974. The rocketing of reported crime in the countryside, though of very small volume, is the result of this gradual infiltration of the countryside by detachments of constables. Between 1963 and 1970, the number of cases known to the constabulary (according to the typology of infractions of Interpol) more than doubled, going from 1,978 to 4,221.

B - Relation between the distance separating villages from a police station or detachment of constables and the volume of reported crime

As well as for the courts, we established the distances separating the villages from a police station or detachment of constables in each of the 28 jurisdictions. The deployment of these agencies considerably increases the accessibility of modern justice. Although there are only 28 courts in the Ivory Coast, there is a Criminal Investigation Department in 35 localities. There is one in each of the cities of more than 15,000 inhabitants, one in 11 of the 16 having a population of between 10,000 and 15,000 inhabitants, and 12 border stations situated at the frontiers between the Ivory Coast and Ghana, Upper Volta, Mali, Guinea and Liberia. The 95 detachments of the constabulary are dispersed through the various regions.

The average distance separating all the villages from an urban or regional court is 48 kilometers. By comparison, there is almost half this distance, 25 kilometers, where the police or constabulary is concerned. For the Ivory Coast, we obtained the following distribution: 1,735 (21%)

villages are situated less than 10 kilometers from a police station or detachment, 3,426 (41%) between 10 and 25 kilometers and 3,139 (38%) between 25 and 50 kilometers. The distribution of the villages in terms of distance varies with the different regions and seems to indicate a correlation between the rates of crime and the proportion of villages situated less than 10 kilometers from an agency of control.

Table 12

Relation between the rates of regional crime and the proportion of villages situated less then 10 kilometers from a police station or detachment of constabulary, Ivory Coast, 1972

Region	Total number of villages	Villages less than 10km distance		Rate of crime per 100,000 inh.
		No.	%	
North	2,761	401	15	182
Centre	2,146	399	19	393
Southwest	1,664	387	23	406
Southeast	1,729	548	32	672
Ivory Coast	8,300	1,735	21	450

It may be deduced from Table 12 that there is no relation between the round figures representing the number of villages by region and the rates of crime. These vary according to the proportion of localities that are easily accessible. The increasing percentage of villages within 10km of a police station or detachment of the constabulary (in the North: 15%, the Centre: 19%, the Southwest: 23% and the Southeast: 32%) are accompanied by a parallel rise in the rates of crime (in the same regional order, they are 182, 393, 406 and 672 respectively).

This seems to show that the activities of the agents of the criminal justice system are concentrated in zones in close proximity to one another and that consequently, the known crime, for the most part, comes from the urban areas and the villages situated within a radius of 10km of their bases. This means to say that the crime statistics reflect urban criminality for the most part, and to a lesser extent, rural criminality, and this covers only 21% of all the villages.

For the 28 jurisdictions, however, when we compare the number of complaints that reached the courts in 1972, and the percentage of villages less than 10 kilometers from a base of the Criminal Investigation Department or the Constabulary, we find a strong correlation: $r = +.79$. The same holds true between the number of complaints and the number of policemen and constables per jurisdiction ($r = +.97$), on the one hand, and the density of the population in each of the courts' territories ($r = +.95$), on the other. The policy regarding the establishing of the criminal justice system roughly follows that of the economic development.

C - Referral of infractions as a sign of the degree of acculturation among the people

In Africa, the crime policy seems to be a strategy of persuasion intended to force the rural populations to gradually adopt the law and the procedures of the new system of criminal justice. This desire to "civilize" through the law is much more manifest in the French than in the English countries. In the old French colonies, the authorities felt they had a mission to civilize their territories and an obligation, according to

the words of the President of the Supreme Court of the Ivory Coast, Mr. Boni (1963), "to force themselves on a majority that were still not socially adjusted" (p. 89). In his opinion, the law should not be a codification of usage and customs, but on the contrary, should substitute the previously recognized law by a new set of laws. He explains his idea as follows:

> The object of the law in the new States is to change the traditions in order to permit social and economic emancipation. It will therefore be in conflict with the customs. Everyone must understand that he is subject to the law and that he must obey it (p. 91).

It may be noted that, among the privileged classes, there is a certain contempt for the ancient institutions and even a certain sense of shame vis-à-vis the rural folk whom they consider primitive and barbaric. During the XVIth International Course in Criminology, at Abidjan in 1966, Brahim Seid, the representative from Tchad, without censure and as though it were a matter of course, gave an explanation of violent crime in the rural regions that would shake even the most convinced evolutionist:

> On the basis of these observations, we may say that in Tchad, assassination and murder occurs more frequently in the rural areas, among the peasants, the farmers and cattle-raisers. It is a milieu that is seldom policed and the individual here is left to his passions and instincts (1968, p. 226).

As a greater and greater gap separates the political authorities and this fine layer of "successful" blacks from the masses, tension and resistance to change grows stronger. The relatively small extent of rural criminality, although increasing as the presence of the constabulary is

felt, indicates that the population in general is not spontaneously collaborating with the mechanisms of police or judicial control. This means that we find ourselves in a situation where we may "fear that the new official rules, taken from the European codes, will end in a regression of the law through a failure to recognize concrete problems, or at least make the codes the prerogative of a minority, the city resident and the educated, leaving the rural masses in a state of "no law" and having an unrecognized "traditional status" (Costa-Lascoux, 1975, p. 93).

It is in this context that the matter of referrals, the reporting of an infraction to the agencies of law and order, should be analyzed. This reportage can obviously not occur until there is a consensus on the definition of an illegal act in the criminal code among the administrators of the system and the citizen or citizens. But in addition to this consensus on the definition of the offence, there must also be one concerning the legitimacy of modern justice. On the African continent, where traditional justice settles a large proportion of disputes that arise among the clans and ethnic groups, often of the greatest gravity, the written law and its administrative channels are still far from being an institution acknowledged and accepted by the native people. On the contrary, for the majority who still live according to village customs, this system of control is either unknown, unrecognized or unaccepted as an alternative to their own methods for settlement, and people only resort to them when they feel forced to do so.

Recourse to the modern courts differs according to milieus and circumstances. Criminal cases will more often be brought before the police and the courts first in large urban centres, for here the customary

law loses its legitimacy (due to the ethnic heterogeneity) in favour of that of the government apparatus. This is because in localities close to a court, a police station or a detachment of constabulary there is a greater risk of being reported for denial of justice by an "intellectual" or a malcontent who rejects the arbitration of the Elders because he considers the proposed solution unsatisfactory. It might be thought that with proximity, the mechanisms of regulation, magnetism and interpretation would have more influence. It could be presumed that the population, more directly in contact with the representatives of the judicial system, would call upon it to handle cases that cannot be settled under their own justice system (disputes with foreigners, for example) and, because of the immediate presence of these agents, would be more closely confronted with the new interpretations of delinquency, and that at the same time the pressure to use the state services would be stronger and more concrete.

In Africa, the need to take cognizance of the role of proximity is very important because the "acculturating" function of justice seems to be having an effect and is also in an expanding phase. Actually, the States first adopted "catechism-codes" in order to didactically state the normative aspect of the laws, with the aim of achieving a collective morality by making certain conduct punishable and by intimidation through exemplary punishment (Costa-Lascoux, 1975, p. 94). MBouyom (1975) finds this deplorable in the case of the Cameroonian criminal code, in force since 1967. Far from seeking some compromise with the customary rules, its object is to combat the traditional concepts considered to be holding back economic and social development:

> The juridic technique is simple: it is based on the incrimination of certain conduct considered negative (sorcery, begging, embezzlement of public funds, vagrancy, indecent assault, immoral offence, attack on another's property, etc.), on the severity of the punishment sanctioning these acts and a procedure that is often unsuitable, complicated and not understood by the masses (p. 2).

It is intended, through the criminal law, to change the mentality of the people and to impose a new hierarchy of values. This preaching of a new order goes from the top to the bottom, from the westernized elite to the masses, and is propagated according to each city/country region. Thus all milieus are not equally affected and the reporting of offences depends on the degree of individual and group adherence to the tables of modern law. This degree of adherence is subject to level of education and place of residence. The two go together since the dichotomy "city/country" is synonymous with that of "literate/illiterate", particularly in view of the rural exodus which, prompted by the lack of schools, is responsible for their overlapping.

The Africans' selective use of both the modern and traditional legal systems is due to a number of superimposed mechanismes that reinforce one another in finally determining the resource chosen to settle a dispute. The choice is possible, of course, only where the written law is known and accepted. A large proportion of the population, mainly rural, is still ignorant of the legal provisions relating to many infractions:

> The people are ignorant of the law. They have no education and there are no organized

> information campaigns. The judges have not even been consulted on all matters pertaining to justice.[1]

In fact, in the Ivory Coast, this ignorance of the laws is increasing from the South to the North and parallels (with good reason) the distance from the agencies of the justice system and the decrease in the rates of crime. In addition to the cognitive aspect, which is of the essence, there is also the conative aspect. In numerous regions the people do not accept the modern law and refuse to apply it, either by intentionally ignoring it or by obstructing it. In the region of Korhogo:

> Everything is settled in the sacred forest. The Sénoufo are a very isolated community, which is an unconquerable obstacle where crime is concerned. It is a highly disciplined society. Because of the "poro" (the system of initiation into society) the traditional chiefs have an extremely strong hold over the population.
> I knew of a case where a proprietor wanted to evict a farmer who had improved his land. The tenant locked himself in his house and refused to leave until he had been compensated for the increased value of the plantation due to his labour. The proprietor said angrily: "If you do not leave, you will see what will happen within 48 hours". Within 48 hours, one of the farmer's daughters died. The customary court declared the proprietor guilty. He admitted his crime and, in order to avoid reprisals, gave himself up as a prisoner. But I, as judge, had to release him as there was no visible proof of homicide.[2]

1. Evidence given by B.A., judge in the bush country, Ivory Coast, 1975.

2. Evidence of C.L., judge in a rural region of the Ivory Coast, 1975.

The same judge, who through the system of rotation had been posted in a number of regions, also recalled the existence of hidden crime in the region of Gagnoa:

> There is a great deal of hidden crime here. Perfect crimes of poisoning occur. It is known from the start that there will be no prosecution. The viscera are analyzed, but the experts find no trace of anything. There is a great deal of criminality but it is not reported. In these cases, a charge is laid even though everyone knows it will come to nothing. But it is hoped that by doing so, recourse to the traditional justice will gradually be checked.

Another judge, who had presided over the court in Katiola, gives evidence of the resistance of the ethnic groups of this jurisdiction to the judicial procedures:

> The people are very reserved. The problems that come before the courts are those that have escaped the customary courts. The natives lay no charges. When there is talk of something having occurred and the examining judge goes to the scene of the crime, the law of silence reigns.[1] No one has seen anything or heard anything.

This opposition is natural (the law imposed being foreign) and is found everywhere in Black Africa. It is the same in East Africa. When an offence or conflict occurs, the people make a calculated decision when it comes to laying a complaint before a court. What motivates the decision is the outcome, whether a judgment by a state organization or that of

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1. Evidence of K.D., judge in a rural region of the Ivory Coast, 1975.

settlement by arbitration will be more satisfactory. The use of one or the other depends on a number of considerations: the relationship of the persons involved in the dispute, the publicity resulting from litigation, the chances of winning the case, the amount of damage entailed, the degree of guilt, the status of the persons and the family ties between the opponents, the cost of the trial and the possible consequences of the outcome of the dispute (Winans and Edgerton, 1965).

Thus, for example, even if the modern justice is accepted by the population because, for one thing, it applies to crimes considered "mala in se" and, according to norm and tradition, these provoke strong disapproval (as in the case of murder and theft), the results of the trials may not conform to the customs and therefore will not restore harmony in the community. When the objectives of the two forms of justice are incompatible, there will be greater reluctance to use the government apparatus.

In other situations, when the use of the customary laws raises problems, such as the risk of starting a vendetta, the opportunity of referring to a third "objective" party may prove beneficial. In Kenya, many cases of murder, because of the "blood vengeance" they imply, are referred to official judges, for the Elders, like Pontius Pilate, are quick to wash their hands of the affair in order not to be accountable for any serious conflicts that may result. The same situation obtains for all disputes apt to lead to intertribal wars. Tanner (1970c) in a study, noted that in Tanzania, in 1959, the thefts of cattle committed by the Masai, in the region of Musoma, were always reported to the police. On

the other hand, the much more frequent and more costly thefts, whose authors belonged to the tribes of this district, were rarely reported. This was because, contrary to the situations involving the Masai, there was no chance of causing interminable wars of vengeance. It appeared, then, that more crimes were reported when they were cases of inter-racial conflict.

All the more so in the cities. But here too, some ethnic groups have methods for settling disputes that function better than those of other groups. Tanner, in the work already cited, makes note of some interesting findings concerning the court of the city of Mombasa, in Kenya. In 1960, in the case of 147 Kamba prosecuted for criminal offences, 44 out of the 71 complainants were Kamba themselves. The same year, there were 90 Luhya who were accused of crimes and infractions. Of 26 complainants, there were only 4 Luhya. The author concludes that if the Kamba community had had a regulatory system as effective as that of the Luhya for settling their disputes, these statistics would have been different. He attributes the difference between these two groups, in their reporting of infractions, to distance: in the city of Mombasa, the Kamba are much farther away from their villages than the Luhya: this makes it difficult to engage in the exchanges that normally would make it possible to come to an amicable settlement between the members of the same ethnic group.

These data show the opportunism that influences acceptance of the modern justice system. It is used either - paradoxically - to preserve the peace and cohesion of the group, or because spheres of jurisdiction

appear where it becomes impossible for the cultural entities to control behaviour. Added to this, the acceptance or rejection of the modern administration of justice is largely dependent on the people's attitude toward its agents - the police, constabulary, courts and penitentiary system.

Knowing the objectives of the modern justice system and the resistance against its establishment, knowing its deficiencies and limitations, it is clear that the criminality it controls has significance only in relation to its functioning and its own logic. The data on reported crime has meaning only in relation to the limitations and actual significance of the organizations charged with its repression. Since the crime recorded is the fruit of the activities of a justice administration that is barely established in the African culture, it can only give a partial and imperfect picture of the reality. All the more so when a large portion of the deviance is absorbed by a parallel system which leaves no trace that would enable us to collate, assess and quantify these crimes. This other side of the coin nevertheless exists. To disregard it would be to falsify the representation of the social reality and, at the same time, deny the scientific value of a study of crime in Africa. The ethnocriminological approach prevents such an error by attempting, with the little information available, to discover the socio-cultural dimension of the African crime situation as well as the public reaction to crime.

Chapter VI

Crime: A product of the Modern Penal System

> It is better to choose the guilty than to look for them (Marcel Pagnol).

The crime recorded by the police is mainly what is filtered through to them by the people. It also depends on the laws in force. In other words, the crimes officially registered by the justice agencies must correspond with the legal definition of the infractions. Since these definitions are based more on western ideas than on those of the Negro-African cultures, they increase the sifting process, even further limiting referrals. The basic problem, which is characteristic of African cultures, is that the penal philosophy of the populations differs from that of the lawmakers. The same thing, of course, can occur in modern states, but the cases are quite different. In the western countries there may be more or less strong support for the crime policies on the part of the general population, or of certain groups, regarding the overall legitimacy of the justice system, or certain aspects of its administration. Here, however, the differences in points of view stem from a common culture.

This is not the case for the African states, where the laws are often directly oriented toward changing ancient mental attitudes. The studies of Coissy (1974), Costa-Lascoux (1975), Melone (1975) and Rives (1975) point out this willingness of the native governments to have the criminal law play the role of protecting the political and economic interests of the state by fighting tribalism and ethnic ideosyncracies. This

is done through two types of legislative measures, the one incriminating behaviour based on custom and considered contrary to the idea of "nationhood", and the other sanctioning practices that are seen as a hindrance to economic development.

The first category criminalizes the constitution of regional "friendly associations" (as in the Central African Republic, Upper Volta and Tchad), and tribal designations, such as scars and other physical markings proper to the various ethnic groups (the Ivory Coast, the People's Republic of the Congo, the Central African Republic). As Costa-Lascoux states, the intention of the criminal law here is to make particularism an offence and eliminate it once and for all in favour of a collective morality (p. 105).

In the second category, the implementation of a policy of development justifies the suppression of anything that stands in the way of progress. Thus the spending of enormous sums for sumptuous and ostentatious funerals, marriages, religious and community ceremonies is often forbidden (Senegal, the Cameroons, Dahomey). The same applies to the dowry, which has been prohibited (Gabon, Ivory Coast, the Central African Republic) or standardized (Mali, the Cameroons, Guinea). Alliot (1964-1965) and Coissy (1974) also note that most African governments repress certain socio-economic phenomena such as idleness, vagrancy, begging, the use of alcohol and non-attendance at shcool, etc. Behaviour of this type is considered anti-social and directly responsible for the country's underdevelopment. Many legislators, in curbing offences related to idleness, are not attacking the dangerousness of the conduct (vagrancy affording

opportunities for the commission of an infraction) so much as its economic aspect (work being looked upon as an obligation, a duty, a necessity for achieving modernization). Thus vagrancy is seen less as a danger than as an attitude prejudicial to the development of the national economy (Melone, 1975). In the Cameroons, it is punished by a prison term of six months to two years (in France from three to six months).

As Rives says, many charges are aimed at eliminating certain criminogenic factors, especially the absence of a penchant for saving which is characteristic of most of the population, and which is the cause of a number of offences that disturb the economy (p. 186). There could be no subtler way - so as to disguise it - of indicating the direction of the crime policy in many African states; it is designed to change certain of the ways of life of a "large part of the population" because they do not conform to the economic pattern. Anything that may disturb it is now called an "offence".

Many of the criminological studies done in Africa are disconcerting because of the flimsiness and generality (not to say banality) of their conceptual and explanatory framework. Most of the time, this is due to a lack of empiric data that could make their illustrations and arguments coherent. The authors are unanimous in deploring the absence of proper statistics, their scarcity and doubtful credibility. Nonetheless, practically none of them makes a serious effort to discover the true significance of these statistical data. They exist in all the countries and are a source of privileged information on the screening process that determines the illegal acts censured by the population and those apprehended

by the criminal justice agencies. Instead of criticizing the figures noted by the police and the courts, it is much better to use them as indicators of the functioning of the criminal justice system.

Easily available to any researcher are, at the very least, compilations of the charges brought before the police, the number of judgments and convictions handed down by the courts and the numerical distribution of those accused and convicted who are detained in the prisons and penitentiaries. These statistics also contain more or less precise information - again it must be solicited and often collated personally - on the delinquents or criminals themselves as well as the types of infraction and the nature of the sentences.

On considering the cases handled by the African penal systems, that is, the infractions dealt with by the police, the courts and prisons, on the one hand, and the authors of these infractions, on the other, there is nothing specifically "African" about them. This is quite natural, for it must be remembered that the legal definitions have been culturally "castrated". The categories of crime have been Europeanized to such an extent that there is practically no reference among them to the traditional customs and beliefs, such as sorcery, trial by ordeal, prohibitions and taboos. All deviant behaviour is redefined according to the spirit of the modern codes and comes under the classic headings of attacks 1) against property (theft, fraud, breach of trust); 2) against the person, (assassination, murder, assault and battery, abortion); 3) against morals (rape, procuring, indecent conduct); 4) against public safety (gangs of criminals, begging, vagrancy) etc.

This is one of the reasons (the de-Africanization of crimes and infractions) why criminologists avoid the traditional aspects of the criminal phenomenon and get as quickly as possible to its etiology. By doing this, they open the door to discussion on either the effects of the economic rise on deviant behaviour (social factors) or on the criminal personality (individual factors). However, before exploring the etiology of deviance and the nosology of delinquents in cultures where the main parameters are unknown, it seems essential to at least know the causes and frames of reference in a social context where the traditional controls are still very active.

This is what we intend to explore by analyzing the different types of offences that are penalized. To do this, we will not use any "typology", but will proceed in a rather impressionistic manner. However, it is necessary to distinguish between juvenile and adult delinquency, since they each come under different control systems. Considering the lack of descriptive and statistical data, we shall trace little by little the main characteristics of African crime, at the same time showing the selective function of the system of criminal justice.

Juvenile Delinquency

A former study by the International Youth Centre (1959) undertook as one of its main objectives to study juvenile delinquency "as a social scourge" and to determine the factors prompting it. The survey was made in Madagascar, the Cameroons and the Ivory Coast, and was limited to four cities: Tananarive, Douala, Yaoundé and Abidjan. Those in charge had

hoped to do an in-depth study of the files of 300 youths who had been convicted during the year in each of the cities. As they became acquainted with the African reality, they had to adjust their focus and change their methods: "the number of minors going through the courts in the course of one year was clearly insufficient for a statistical analysis" (p. 14). What was thought to be a "scourge" turned out to be less and less so at each step of the investigation.

At Douala, which had 125,000 inhabitants in 1955, only 173 minors appeared before the court that year. At Abidjan, where the population could be estimated at 225,000 inhabitants in 1957, a mere 74 delinquents were referred to the juvenile judge. These facts contradict the theory that juvenile delinquency is the inevitable result of modernization, as was stated in a United Nations document entitled "Social Defence Policy and Development Planning" (1970):

> As a country begins to progress, to discard its traditions and respond to outside influences and new ideas by becoming modernized, industrialized and concentrating its population in cities, we see that its inhabitants, and particularly the younger generations, take advantage of the many new opportunities offered them. In so doing, a numer of them - few at the start, but an ever increasing number - succumb to temptation and avail themselves of illicit gratifications through criminal activities (p. 2).

The few statistics that have been published contradict this increase in delinquency, as Table 13 shows. The figures concern convictions of juvenile delinquents and are furnished by the International Youth Centre (1959), Tschoungi and Zumbach (1962) for Douala (the Cameroons), by

Pierre, Flamand and Collomb (1962) for Dakar, (Senegal) by Oloruntimehin (1971) for Ibadan (Nigeria), and by Clifford (1974) for Zambia.

Table 13

Number of minors convicted by the courts of Douala, Dakar, Ibadan and Zambia

Year	Douala	Dakar	Ibadan	Zambia
1951	76	-	-	-
1952	198	-	-	-
1953	229	168	-	-
1954	160	140	-	-
1955	173	128	-	-
1956	-	152	-	-
1957	-	148	-	-
1958	-	136	-	-
1959	-	144	-	-
1960	-	132	464	-
1961	66	88	359	-
1962	-	-	327	-
1963	-	-	530	-
1964	-	-	350	-
1965	-	-	205	1,799
1966	-	-	261	1,902
1967	-	-	473	1,748
1968	-	-	294	-
1969	-	-	192	-

In every case examined here, there is a stable number of minors convicted. In reality, however, if we take into account the increase in population (especially that of young people, notably from 10-18 years of age, whose ranks swelled enormously in the urban areas following the rural exodus), we must agree that there is a substantial diminution of reported juvenile delinquency. This is obvious for Douala and Ibadan where the round figures show a notable decline. Considering that Zambia counted

1,748 convictions of young delinquents for a population of 4,000,000 inhabitants, that Ibadan, in 1969, with a population of about 600,000, had only 192 convictions of minors, and that in Dakar the number of deviants fell from 168 to 88 between 1955 and 1961, while its population rose from 230,887 to 385,740 inhabitants, we must bow to the fact that the statistics have no relation to the true evolution of juvenile crime. On the other hand, they eloquently express the attitude of the population toward this type of criminality, as well as that of the penal agencies and the institutional system responsible for the socially maladjusted in these African countries.

This constancy of juvenile delinquency is far from the reality. It seems that if few juvenile delinquents go through the penal system, it is largely because the courts do not know what to do with them and avoid prosecuting them too often for lack of institutional and human resources. In 1972, the juvenile court in Bamako, the capital of Mali and a city of about 200,000, handled 113 cases of delinquency. Sanogho (1976) states that according to the Department of National Education, the Mali capital had 42,717 children of school age - that is, 65% of the educable population - who were vagrants, having no fixed residence or assured means of survival.

Incidentally, Mali has only two rehabilitation centres. Before the opening of the Sotuba Centre in 1953, minors from 8 to 16 years of age were mixed with the adults and lived in complete idleness. Between 1960 and 1965, the Centre housed only 822 youngsters who came from all over the country (the present population of Mali is 5,000,000 inhabitants), on an

average of 164 a year. The second Centre, at Bolle, at present receives only 46 adolescents, half of whom come from Bamako.

The situation is the same in many African countries. The Cameroons, too, have only two establishements for minors: the Bonakouamouang Protection Centre and the Bétamba Rehabilitation Centre. Together they house hardly more than a hundred minors. In this country, as in other African states, the need to establish special institutions is obvious, for many adolescents are detained in adult prisons. Tschoungi and Zumbach (1962) report that on July 22nd, 1961, there were 54 minors in the Yaoundé prison, built in 1915 for 200 to 300 adult prisoners, and which at the time contained between 1,200 and 1,500.

This is also the case for Zaire, where Houchon (1973) deplores a flagrant lack of concern on the part of the authorities where child protection is concerned. At Kinshasa, systematic round-ups of young people regularly bring in about 200 minors who are jammed into two large windowless and fetid cells; 90% of them are released the next day against a fine. As for the others, they are kept for a week in unsanitary premises, guarded by untrained personnel. They are subsequently assisted by a number of social workers. But for the past several years, the number of genuine family investigations has dropped. Concerning treatment, Houchon believes that the training the adolescents receive is an illusion, that they are exposed to all kinds of deviant behaviour: brawling, marijuana, homosexuality, theft.

In the Ivory Coast, most juvenile delinquency is obviously concentrated in Abidjan. For several years now, juvenile judges have been

handling about 200 cases a year. The two institutions for young delinquents, the Dabou Rehabilitation Centre, which houses only 28 boys (new construction will make room for 48), and the Training Centre of Zone 4, which contains about 80 children with behaviour or learning problems (in principle, placement is subject to a psychological examination), are insufficient for the needs and cannot satisfy the demand. Also, according to the study done by Cusson (1972), in April 1972, 70 children were put in the Abidjan prison where they were left to themselves, with the benefit of only a few courses given by an adult prisoner. Actually, there is neither the personnel nor premises to properly attend to these adolescents, who often stay more than a year in this institution - after which they are sent back to the streets. As Cusson points out, Abidjan has only one parole officer and its youth squad consists of a single police officer - this for a population that has now reached almost a million inhabitants.

These few facts show the direct link between the delinquency that is reported and the justice system's ability to absorb it. It would be enough just to increase the personnel (policemen, judges, educators, social workers) and the number of institutions (juvenile courts, houses of correction, protection homes...) for the volume of delinquents to be doubled, tripled and even increased tenfold, from one day to the next. This confirms the fact that the crime statistics of every kind are first and foremost indicators of the organizational structure of justice and its methods of functioning.

If the network of detection agencies were extended and there were greater supervision of children in moral danger, the numerical data in the

coming years would show an increase in the number of minors judged by the courts in Africa, or in certain states, but it would be quite wrong to conclude from this that it signified a spectacular rise in juvenile delinquency. However, this is the way some criminologists analyze the "objective" information they have at their disposal.

Juvenile delinquents certainly exist. They are a problem specific to large cities where thousands of children are left to themselves, and like Bamako, Abidjan is faced with a serious problem of vagrancy. Cusson, already cited, questioned a number of persons whose profession brings them in contact with maladjusted minors in the Ivory Coast capital (personnel of the protection centres, juvenile judges, etc.), as well as Father Martin, who runs a village for abandoned children in Abobo-Gare. According to this priest, many children have complete liberty and spend their days without any control over their comings and goings, or what they do with their leisure time. He estimates the number of children left unsupervised at over 15,000 in Abidjan, and at least 1,800 who have been given to vagrancy for at least six months.

> During the day, these children haunt the public places in search of an opportunity. At night they take refuge in Port-Bouet, Adjamé and in districts of Abidjan that are seldom policed. They do whatever they can to survive. In the better cases, they have a small job (polishing shoes, porters, selling things); but in most cases, they have to resort to less commendable activities in order to live. They steal in the market places, they get clients for prostitutes, they traffic in drugs, some forming gangs to carry out their crimes. It seems, then that a population of youths is developing in Abidjan who live on the margin of society, constituting a reservoir of fomenting anti-social attitudes. (Cusson, 1972, p. 51).

In the cities for which we have information on the diagnosis of juvenile delinquency, Douala, Dakar, Ibadan, Lagos, Abidjan, Yaoundé and Bamako, what seems evident is the enormous gap between the delinquency committed and the deliquency not "unknown" (for this is estimated to be a great deal) but not "registered". The courts and institutional circuits can handle only so many juvenile delinquents, for they are limited by the availability of only a few specialized personnel and the absence of sufficient placement resources. Thus the "system" is obliged to "choose" the deviants who are to be branded as such.

The selection of delinquents

A research study in Lagos, headed by Oloruntimehin (1970) in 1968, was intended to show, in the purest tradition of the studies initiated by the Gluecks (1962), the influence of the family milieu on the deviant individual. Thus the survey, in an African context, applies variables such as the breaking up of the family (due to the separation of the parents, the death of one or the other, divorce or the desertion of one of the parents), the kind of parental discipline given the children, marital harmony, the mother's and father's interest in the children's school work, the relationship between brothers and sisters (jealousy, hostility, rejection), the supervision of the children by those responsible for the family, and polygamy. The investigation was carried out on 91 Yoruban delinquents in institution (whose ages varied between 10 and 14) and on a group comparable in every way save that they had no court record. All were natives of Lagos. What is surprising in this work is that an African sociologist

should fall so easily into the trap of imitating western models of inquiry - models centred on the nuclear structure of the Euro-American family and, what is more, leave much to be desired.

The author's conclusions merely confirm the hypotheses, for in a way, the latter restrict the findings. In effect, the hypothetical variables are taken in themselves, with complete disregard for their roots in the whole social context and the relationship that exists between the society and the mechanisms used in classifying delinquents. The author sees significant correlations between deviance and the indicators she uses, with the one exception of polygamy, which proved to make no difference. Thus deviance seems strongly connected with broken homes, too strict discipline, marital disagreements, lack of supervision of the child's work at school, segregation of the "black sheep" by the members of the family and insufficient parental control over the activities and friends of their offspring.

The results of Oloruntimehin's research could be said to have all the appearance of a truism in confirming that juvenile delinquents are "maladjusted" or "problem children". But what is more serious, and this we feel is a failing of a good number of these studies on the etiology of deviance, is that there is some confusion between cause and effect. The research model suggests that anti-social behaviour is the result of an inadequate family environment. Based on this premise, persons qualified by the "system" as delinquents are compared with so-called normal individuals without taking into account the mechanisms of selection or the frame of reference.

Thus a comparison is made between subjects who have been screened minutely, due to the lack of sufficient institutions to house all maladjusted children, and youngsters and adolescents who show no signs of being an "anomaly". This without taking into account the fact that, in many cases, youths are handed over to the justice system because other alternatives have failed. The failure to refer to the self-regulatory agencies of the community presupposes a delinquency not only of the offender himself but also of his family, which cannot or does not want to take advantage of the aid and support implied in the solidarity and cohesion that is characteristic of the African family. In other words, a comparison of delinquents and non-delinquents, in the context of the changes that are throwing Africa into a state of confusion, shows the effects of the urban family's adjustment or lack of adjustment on the probability of problem children ending up in correctional institutions much more than the connection between the family environment and the delinquent behaviour of minors.

An understanding of known delinquency is hardly possible in a conceptual framework that leaves out the sociological structure of the family institution. In a village, inadequate discipline or the absence of one of the parents does not upset the child's life, for the parental role will be taken over by an uncle or aunt, for example. This reaffirms the fact that in the urban centres the deviants who are registered in the judicial records are chosen from milieus where the extended family has been so fragmented that it can no longer count on the other members of the clan. To be valid, Oloruntimehin's should have analyzed the families of

the two samples studied in terms of their respective integration in the entire network of the extended family.

In the cities, the nature of the ties between the victim's family and that of the offender plays a most important role in the decision whether or not to take the guilty person before the courts. The more isolated a person is (this is the case for foreigners and people from the country whose parents don't live in the city) the less he is able to resort to conciliation or arbitration. In Abidjan, according to the survey of the International Youth Centre (1959), the fact of having parents who live far from the city has a definite bearing on the delinquent's entry into the penal system. 45 to 50% of the mothers and fathers of the delinquents in the sample were living outside the Ivory Coast as against 13% to 15% for the non-delinquents. The researchers also noted that not only did the delinquents live in poorer lodgings than the test population (only 29% of the former lived in a stone house as against 50% among the non-delinquents) but also 19% of the minors judged by the courts had no home at all.

The several studies made on juvenile delinquency focus on the characteristics of the family milieu. One can only deplore the fact that not one researcher stopped to analyze the public reaction in order to ascertain the criteria by which, from the victim to the police and the courts, the selection is made regarding the cases that will be prosecuted and convicted by the official system of social control.

The research conducted by Bassitché (1974), in July 1973, on 44 minors incarcerated in the Abidjan Prison, shows that only 15.9% of them

were natives of the Ivory Coast capital, 47.73% were from various regions of the Ivory Coast and 36.37% from neighbouring African countries. Although he did not go into the family situation of the delinquents, the author concludes that most of the young people were either from the country or foreigners, and that possibly the absence of the parents explains the origin and development of the deviant and criminal behaviour (p. 138). This, obviously, is the explanation that most easily comes to mind. To this somewhat simplistic etiological argument must be added the selective effect of the various levels of justice for minors. The fact that these children and adolescents do not have the same community and parental support as those in Abidjan, since they are far from their own families, makes them much more vulnerable vis-à-vis the police and the courts. There is a structural situation here, proper to groups of individuals (young immigrants) who, because of greater difficulty in camouflaging their deviance, become post facto an apparent element of the etiology of the delinquency, whereas this situation, in itself, is much more a source of supply for the institutions than an actual criminogenic factor.

The nature of juvenile delinquency

The study of the infractions committed by the African youth, based on the few data accessible, seems to furnish a very different picture from that of the criminality in industrialized countries. In Africa, as we have seen, the recorded juvenile delinquency is quantitatively insignificant because of the lack of institutions to house all young offenders. It is also different qualitatively, being of a less serious nature, and frequently motivated by the need to survive.

In Abadan, between 1960 et 1970, the court handled 3,445 cases (an average of 345 a year). According to the statistics furnished by Oloruntimehin (1971), the most frequent offences were the illicit sale of merchandise in the streets (1,350 cases or 39%), theft (971 cases or 28%) and vagrancy (618 cases or 18%). The rest (15%) comprised petty fraud, assault and battery and vandalism. The situation in French-speaking African cities is similar.

The studies of Sanogho (1976) in Mali, and of Bassitché (1973) in the Ivory Coast, enable us to compare the statistics of the Children's Court in Bamako for the years 1971, '72 and '73, with those of the Juvenile Judge's chambers in Abidjan, from 1971 to February 28, 1973. The Codes of the two countries being similar, we have shown in Table 14 the comparative distribution in number and percentage of the various crimes and infractions committed by minors.

Table 14

Infractions committed by minors at Bamako (1971, '72, '73) and at Abidjan (1971 to February 28, 1973) according to the judicial statistics

Infractions	Bamako (Mali) No.	%	Abidjan (I.C.) No.	%
Theft, aiding and abetting, attempt to commit...	234	77.7	361	64.4
Vagrancy...	32	10.6	18	3.2
Breach of trust...	10	3.3	34	6.1
Manslaughter...	2	0.7	3	0.5
Assault and battery...	13	4.3	120	21.4
Arson...	1	0.4	-	-
Indecent assault...	9	3.0	4	0.7
Other...	-	-	21	3.7
TOTAL	301	100.0	561	100.0

Theft, vagrancy and brawling are the main causes of arrest and conviction. If attempts against private property seem proportionally higher in Bamako and Abidjan (77.7% and 64.4%) than in Ibadan (28%), it is because in Nigeria the legal definitions of what constitutes an infraction are different. The illegal sale of goods in the street, which constitutes more that a third (39%) of the juvenile delinquency in Ibadan, is a minor offence - often it is a matter of very young children, from seven to ten years old, who sell food or clothing on the highway or in the market places for their relatives. Their arrest, most of the time sanctioned by a fine, seems to be directed more against the parents in order to force them to send their children to school. It is an artificial juvenile delinquency, for it is the result of having criminalized conduct that is normal in traditional societies. This acculturation policy over the years has borne fruit, if we are to judge on the basis of this infraction. From 1960 to 1964, this offence constituted 44% of the cases judged against 32% from 1965 to 1970. This change may also be due to less concern on the part of the authorities to educate the youth at any cost (at the risk of creating unemployed workers). This is merely conjecture, however. Inversely, during the same period, the proportion of thefts rose from 25% to 34%.

On the other hand, vagrancy seems to be more strictly controlled and to be increasing (10.8% in 1960 and 36% of the total of infractions in 1969) in Ibadan compared with what is happening in Bamako (10.6%) and Abidjan (3.2%). This is due either to the fact that the institutions for juveniles are more numerous in this Nigerian city or more probably, to the

greater homogeneity of the population (mostly Yoruba). Because of this homogeneity, it is possible to track down the families of the vagrants and, after their arrest, return them to their parents. It is impossible to do this in cities where much of the vagrancy involves immigrants, as is the case in Abidjan. In the capitals of the Ivory Coast and Mali, the police and judges seem to reserve the available space in the protection centres or prisons for the authors of more serious infractions.

Serious delinquency is infrequent and when it does occur it is very often in connection with an organization run by adults. A few years ago, in Abidjan, a school was discovered where professionals were instructing the children how to steal with the aid of mannequins. More recently, a gang of criminals was found using children for the theft of moter scooters. The network was widely spread, stretching from Abidjan to as far as Upper Volta (I.C.C.C., 1972).

As the judicial statistics of Bamako and Abidjan show, the majority of infractions are thefts. There are few cases of rape, possession of drugs or manslaughter. The most frequent thefts are of food and clothing in the markets and stores, more rarely objects of value; (mainly from cars): camera equipment, watches, silver, transistors. They are usually useful objects (shoes, pens, bread and chocolate) and of little value. In Kampala, between 1962 and 1969, most of the thefts committed by the young amounted to very little money; more than half (55%) of a sample of 102 delinquents had stolen objects worth less than 100 shillings ($14.00) and 40% of these objects were not worth more than 3 dollars (Kibuka, 1972; see: Clinard and Abbott, 1973). These attempts against property are too

often motivated by a poverty that makes it necessary to steal in order to survive, many of these minors being unable to count on their parents for support.

We note, too, a proliferation of petty blackmail. Youngsters offer to "guard" cars in shopping areas and market places for several francs C.F.A. The owner is quite aware that if he refuses, he takes the risk of having the air let out of his tires. This procedure is fairly widespread in the markets of Treicheville and Le Plateau in Abidjan, for most people give in to this practice.

The Dakar research, previously mentioned (Pierre et al., 1962), came to the conclusion that from 1953 to 1961 the number of crimes accomplished single-handed diminished and there was an increase of crimes committed by groups. It is usually the youngest (those under 15) who tend to band together. This situation, which also exists in the Cameroons (Tschoungui and Zumbach, 1962), in the Ivory Coast, where 42% of minors had accomplices, and in Zaire, Ghana and Zambia (Clinard and Abbott, 1973), shows a trend that can only become more widespread.

This is because of demographic and economic factors that overlap during the process of development and create maladjustments. Among these are the rural exodus and the profound social changes that urban living makes within the family. We shall come back to this when we discuss adult criminality. For the moment, it is enough to say that juvenile delinquency in Africa has not yet the appearance, either in volume or gravity, of a scourge. However, along with Cusson (1972), it must be understood

that the number of young vagrants who habitually live on the margin of society (and which population, unfortunately, can only increase) warrants some concern for the future, as they are a potential source of crime.

> In effect, there is a chance that these young people will acquire living habits that will make them incapable of accepting the demands of regular work; they will then be inclined to become more and more deeply involved in a delinquent style of life. On the other hand, these young vagrants already have a tendency to form gangs, to organize themselves and improve their techniques. This trend may very well take shape and lead to a delinquency that is more and more serious and more and more difficult to control (Cusson, 1972, p. 52).

What are the causes of this situation? Throughout the numerous studies devoted to the social evolution of the African countries, the recurring theme is the breakdown of the family or, in more general terms, the traditional societal organization. Vagrancy and the emancipation of youth from parental authority are indications of a profound upheaval. As the acculturation process is amplified, conflicts of norms and values arise, and as the evolution accelerates, human nature is forced to adapt and readapt itself more and more quickly to a kaleidoscopic existence.

> The city brings about a change in traditionally prescribed family relationships. It leads to a relinquishing of social restraints and produces a state of anomie that confuses the new citizen. It imposes the coexistence of heterogeneous elements - a situation that is conductive to conflicts between individuals, cultures and different groups. This formless society promotes the emergence and increase of criminal behaviour among both adults and young people; these factors play a role that clearly reveals the degree to which social organization is lacking (Balandier, 1971, p. 249).

The factors to which Balandier refers (change in family relationships, coexistence of different ethnic groups...) as being etiological elements of social pathologies are, in fact, only the consequences of a much more basic rupture that has occurred, not at the economic level, but that of the political structure. As Clastres (1974) says in support of this:

> A single basic structural upheavel can change a primitive society by destroying it as such: it imposes, either from without or within, the authority of the hierarchy, a relationship of power, the subjugation of men, the State itself, while the very absence of these is what defines this society. (pp. 172-173).

Following the colonization and balkanization of Africa, the ancient tribal entities were continually attacked by the centralizing state authorities whose primary concern had been to even off differences in order to neutralize the forces of resistance and contention. The tool used was schooling through which, more or less consciously, an attempt was made to wean the people from their culture and make them uniform. In doing so, however, a cleavage was created, no longer determined along horizontal social lines in terms of sex, age, lineage, etc., but vertically, according to social classes, differing from one another in terms of political and economic domination.

By extending education in the name of cultural progress, the governments were not aware that they were creating a boomerang that would destroy the former balance and, through the rural exodus that resulted, cause urban over-population, a depletion of the countryside and political

instability. In effect, education upset the relationships between the young and the old in the villages: it introduced an element of social progress that had nothing in common with the ancestral values; it held out bright prospects for social mobility that could only be realized in the city and which the city could accord only a privileged few. This created a differentiation between individuals, a differentiation tha had no place in the traditional structures.

Thus the school often plays a negative role, even though indirectly, since it widens the cultural gap between the young generation and the old, and uproots the child from his milieu. Young people, better educated and more susceptible to the ideas and aspirations conveyed by western societies, are less willing to accept the authority of the ancient chiefs and reject part of their culture, which in their eyes seems too conservative and stagnant. Although they have had only elementary schooling, the adolescents refuse more and more to do manual or farm labour and prefer to leave the village and go to the city rather than assume a function in community life.

Mourgeon (1969) notes, with a realism tinged with pessimism, that intensive schooling threatens the balance between the rural milieu and the urban milieu as more migrant students settle in the city once they have finished school. In the years to come, sharp disparities can be expected between the rate of population growth in various regions, the North losing to the South and the villages to the cities. Sanogho (1976) points out that education leads young girls to compete with the boys and want to free themselves of their traditionally inferior position. The young Mali, as

he advances further in his studies, becomes almost deviant, without actually being so... He feels isolated. As the author comments, the school creates a conflict of cultures between traditionalism ("eating with bare fingers") and modernism ("eating with steel fingers").

The educational system, then, can have an alienating influence and even a criminogenic connotation. The young people who have come to the city to attend school, and in the hope of bettering their social situation, are sometimes greatly disappointed. Among the multitude of pupils and students in the Ivory Coast, many leave the rural milieu to come to Abidjan or some other city to seek employment. According to the estimates given by Rémy (1973), during the period from 1960 to 1965, 60,000 settled in the city. He notes that a quarter of the newcomers were between 15 and 20 years of age and a large number of them had had some schooling. In many cases, however, their education is insufficient or does not equip them for steady and remunerative employment.

The schools are unable to give an extensive education to every child. Opportunities for study at the secondary or higher level are very limited. In Mali, the school manages to teach only 20% of the population to read and write. Sanogho (1975) shows that during the first five years of school, the rate of drop-outs is 47%. It varies from 6% to 11% a year, and the percentage increases with the years. It is 27% for 9th grade pupils. This dwindling attendance at school is an important criminogenic factor. In the Ivory Coast, 35% of the children begin high school, but only 1.4% reach the final grade. A very small proportion of students manage to go to university and acquire positions of rank in the economic,

social and political structure of the country. The problem is that the parents and the students themselves have the illusion that a child who goes to school can necessarily become a civil servant (Sanogho, p. 56).

> For most of the youngsters in the cities and villages, school is a means of entering the privileged rank of public office. The peasant's child, pushed by his parents, quickly sees the impossibility of getting ahead socially as a farmer. The only way of bettering himself, then, is to leave (p. 72).

Thus for a good many young Africans school is a misleading goal.

What happens - and should orient future studies - is that the rural youth who go to the city to attend school are usually taken in by guardians or distant relatives who have other things to do than look after these young people sent to them from the village and whom they cannot refuse their hospitality. Some immigrate with, or soon after, one of their parents, usually the father, who has come to the city to "try his luck", but in all of these cases, the young villager, finds himself at a disadvantage.

Disturbed family relationships occur not only in the homes broken by the rural exodus. Families living in the cities, because they are isolated from their relatives and their tribal group, have a tendency to become nuclear and unstable. In Tanganyika (now Tanzania), for example, it was noted that one of the principal causes of the juvenile delinquency in the cities was the breakdown of the family unit. Divorce is easy, especially among the Muslims. The result is a most regrettable renouncement of the ties created by the marriage contract (United Nations, no. 16,

1960). In this same document, Riby-Williams states that traditional marriage, with all the obligations it implies, is very much on the decline in the cities of Ghana.

The too rapid change from one family structure to another leads to greater instability. Divorces, separations and unconventional unions are frequent. The abnormal "sex ratio" - due to the preponderance of male immigrants - gives women the advantage of being able to liberate themselves more easily and change the role assigned them in the traditional society. Furthermore, they contribute to the weakening of moral values and the development of prostitution. As Davidson (1969) says, the new "city values" and "free enterprise" sweep all before it. The responsibility of family life is thrown overboard, "the old respectabilities being abandoned with the old tyrannies" (p. 87). The children are the first victims of these social changes. The breaking down of the taboos that were the basis of tribal education, the crumbling of the clan solidarity which guaranteed emotional support, have led to a situation where in many city families the children lack a proper upbringing. Under these conditions, juvenile delinquency finds fertile ground for its development.

The disintegration of the extended family, however, does not mean that from one day to the next parental relationships become devoid of meaning, of their effect. The bond between family groups is still strong and the obligation to come to the aid of any relative in need is keenly felt even today. Gibbal (1974) in "Citadins et villageois dans la ville africaine" (City Dwellers and Villagers in the African City), a study on the neighbourhoods of Marcory and Nouveau Koumassi, in Abidjan, found that

90% of the relationships maintained by the citizens were founded either on family ties (40%) or on ethnic loyalties (50%). More than 60% of the persons questioned belonged to volunteer societies for ethnic solidarity. But whereas the traditional attitude toward the extended family and the clan still exists, sometimes even impinging on the mutual responsibilities of husband and wife, the ties between their members are loosening, often giving rise to a profound feeling of insecurity.

Contrary to the etiological studies that try to show the connection between the family situation and delinquency, it is necessary not to limit the investigation to the immediate family but to focus it on the family's insertion in a social milieu where bonds are formed along traditional lines, but adapted to the new situation. In our opinion, what is important is not so much the unity of the family nucleus, in the strict sense, but the social cohesion that sustains and supports the individual or the family.

Looking at the statistics of the juvenile courts and observing the characteristics of the young people brought to justice, it is easy to figure out the criteria by which minors are selected for entry into the complicated machinery of justice. It is the most helpless, the most isolated, the outcasts; it is those whose deviance is most obvious because they have neither parent nor protector to intervene in their favour, to settle matters out of court or pay the fine that would avoid imprisonment; it is those whose referral is easiest because they are alone, without a home, either from the country or foreigners, or because they do not attend school and there is no alternative but to arrest them. They are just as

much the victims of the development (which, through the school and the spreading of the values of an individualistic society and consumer industry, draws the schoolboys of the villages to the large cities like a magnet) as of the system of criminal justice (whose roundups preferably seek out the most vulnerable). It would be wrong to think that the judicial statistics can give us a true picture of the African delinquent, when many of them show only the discriminating and discretionary power of the penal agencies of criminal justice.

Adult Crime

The statistics on adult criminality in Africa are sparse, incomplete and of little significance. Whether it is the police, judicial or penitentiary statistics - even if they are compiled with care, which is rarely the case - they are almost always presented independently, more or less loosely, so that their relative significance confines the researcher to superficial, if not false interpretations. To our knowledge, at the moment there are no official data for any of the African states that make it possible to follow in space and time the evolution and nature of the criminality.

This situation is not so much due to a lack of accessibility to the pertinent information that the administrative authorities possess, but rather to the attitude of criminologists who, for lack of time and patience, have no opportunity to go into the matter thoroughly. The result is that most of them insist on "logical" explanations of the situation but do not adhere to the true factors that qualify the various manifestations

of delinquent and criminal behaviour. It seems, therefore, that for an analysis to be as exact as possible, it is essential that the statistics and other pertinent data be studied, not only in time and space, but also in the combined dynamics of the socio-cultural development and the institutional mechanisms of crime control.

Urban and rural crime

In black Africa, the known criminality is concentrated in the urban areas, which, depending on the State, contain only 15% to 30% of the population. Characteristic of the country is a very pronounced inversion of the population/criminality relationship in the cities and rural areas. In Senegal, in 1972, of 18,109 offences reported to the police and constabulary, 9,038 (44%) came from Dakar, 3,939 (22%) from the six other main cities and 6,142 (34%) from the purely rural districts (Diouf, 1973). In the Ivory Coast, in 1971, criminality in the cities accounted for 66% of all crimes and infractions, the bush regions for 34%.

Concerning the type of crime, according to the police statistics of the Ivory Coast (Brillon, 1973), the urban areas furnish a greater proportion of crimes against property and against morals than the villages; these, on the other hand, are responsible for a relatively higher number of attacks against the person. We see, in effect, that 76% of the cases of fraud, 70% of sexual offences, 68% of thefts and 64% of drug offences occurred in the cities, whereas 86% of all homicides and cases of assault and battery took place in the rural districts. In Senegal, according to the penitentiary statistics for 1972, 62% of the thieves convicted came

from the city as against about 47% of persons imprisoned for homicide or assault and battery.

It could be concluded from these findings that rural crime in Africa was much more physical and violent than urban crime (Brillon, 1973), or that violent crimes were relatively more numerous in the rural areas (Diouf, 1973). However, these conclusions, justified by the statistics, could very well be, at least partially, the consequence of an optical illusion.

Clearly, the absolute figures and percentages, the way they are divided between the rural and urban milieus, furnish certain indications, but at the same time they may be misleading because they do not take into account the distribution of the population. Since we have no reliable data for any other country than the Ivory Coast concerning the territorial boundaries of the penal jurisdictions, their area, their population, their density, their degree of urbanization or the number of their police and judicial agencies, we have been forced to limit our analysis of the nature, number and source of infractions to a single country.

At present, the Ivory Coast is the only African State on which we have enough pertinent data to afford a detailed study of the criminal phenomenon and the public reaction to crime. Coming back to the police statistics mentioned previously, when related to the distribution of the population, it appears that the rate of infractions in the villages is ridiculously low compared with that of the cities. This is shown in Table

15. It must be noted that these are the statistics of the police and constabulary, which classify infractions according to the typology of Interpol, and do not take into account either the less serious offences or infringements of the law. This explains why the totals referred to here are lower than those of the judicial statistics.

Table 15

Rate of more serious crimes per 100,000 inhabitants according to city/country as recorded in the statistics of the police and constabulary of the Ivory Coast (1970)

Type of infraction	Cities		Country		Total	
	No.	Rate	No.	Rate	No.	Rate
Murder, attempt or act considered such	112	7.84	706	18.81	818	15.79
Sexual offence (including rape)	316	22.11	135	3.60	451	8.70
Theft	5,472	382.92	2,597	69.21	8,069	155.73
Swindling, fraud, breach of trust	2,006	140.38	570	15.19	2,576	49.72
Counterfeiting	214	14.98	115	3.06	329	6.35
Drug offences	175	12.25	98	2.61	273	5.27
Total	8,295	580.47	4,221	112.49	12,516	241.55
Urban population:	1,429,026 + rural 3,752,471 = 5,181,497					

The rate of crime in the country areas is five times lower than that of the cities (112.49 against 580.47 per 100,000 inhabitants). Almost the same has been confirmed for sexual offences, the rates being respectively 3.5 and 22.11; for theft (69.21 and 382.92); for infractions involving counterfeiting (3.06 and 14.98) and for those against the drug laws (2.61 and 12.25). The cities also show a rate of fraud-related delinquency (140.38) way beyond that of the country (15.19), a rate nine times higher. On the other hand, the rural regions have twice as many acts of violence committed against the person (homicides and voluntary assault and battery) than the urban centres (18.81 against 7.84 per 100,000 inhabitants).

This confirms the predominance of offences against property in the large cities and that of violent crimes in the villages. At the same time, it shows that the differences between the profiles of criminality are much more accentuated in the case of theft, particularly its fraudulent aspects, and sexual offences than in the case of crimes against a person's physical integrity.

This differenciation in the profiles of criminality confirm what was said in the preceding chapter about the self-sufficiency of the peasant communities. What most often escapes the usual recourse to customary justice are homicides and wilful injury (the rate in the country surpassing that of the cities). These are crimes that draw attention, create a commotion and start people talking, and because of this, and also their gravity, it is dangerous for anyone to defy the official agencies of justice and not report it. For the rest, despite a population two and a half

times greater (2.63) than that of the cities, in 1974, the villages reported only 135 sexual offences, 2,597 thefts, 570 fraudulent dealings, 115 cases of counterfeiting and 98 drug offences to the police and constabulary. Against this, for city residents, there were respectively 316 morality offences, 5,472 thefts, 2,006 crimes of fraudulence, 214 cases of counterfeiting and 175 concerning drugs.

Because many crimes and offences rarely go beyond the limits of the traditional courts, the image of criminality in the bush is fairly distorted, at least more than that of the metropolitan centres. To get a more accurate picture, it is important to keep in mind the description given previously of the criminal offences in traditional African societies, for the statistics do not reflect their number, their nature or their range.

Another element that makes the crime situation in the cities different from the countryside is that in the two living environments the probabilities of delinquency differ. It is primarily this aspect that interests us here.

The African cities, as the footholds of modernism, are horns of plenty, where consumer goods are displayed to the point of indecency before the eyes of newcomers to the city, the majority of whom, unlike the privileged minority of wealthy Africans, cannot acquire the luxuries that adorn the windows of the department stores and which are a source of veritable torture to the less affluent. Many immigrants, the unemployed, who live on more or less distant relatives, and vagrants with neither home nor family, live in such poverty that they could well be driven to thievery.

The availability of objects to steal is much greater in the cities; there are more things to tempt and frustrate those who cannot afford them. In addition to this, the interpersonal relations being more superficial in a heterogeneous milieu, the anonymity and resulting laxity of social control are conducive to this type of criminality.

A - Offences against property

In the villages, theft is considered an act of extreme gravity. If it is rare, it is because the people are related to one another or bound by ties of clan and lineage. In this context, theft is seen as a serious attack on the social cohesion and the infamy of the act will not only disgrace the guilty person but his whole family as well. The social control of the community over its members is much stricter here because of the collective implication of the act and its possible repercussions on the equilibrium of many interrelated groups. Potential delinquents are therefore less inclined to give in to temptation.

It must be said, too, that the villages, apart from farm products, fowl and cattle, have no booty worth coveting to the point where someone would steal from his own kind and expose himself to revenge which could be violent as well as disgrace him and his family. As opposed to the city, village life does not permit a delinquent to act with impunity, nor does it provide the shelter of anonymity. The risk of being held to account is so great that it discourages a good many deviants. Furthermore, when a theft is committed between persons of the same clan or village, there is every chance that the matter will be settled by conciliation.

The same applies to fraud, swindling, breach of trust and the payment of cheques without sufficient funds, for these offences are only possible where there are banks, large commercial enterprises and political-economic hierarchies which share the various decisional levels, giving the persons in authority considerable latitude to sell the influence they have due to the discretionary power attached to their function. The misappropriation of public funds and other forms of astute delinquency, which Diouf (1966) calls the "childhood sickness of Independence", exists in all the administrations, like the worm in the apple, and seems to assume immeasurable proportions in the African states. Corruption is obviously a negation of legality, for it implies that the state structure is being used for objectives that have no relation to its function. But again, we must understand the reasons for it. A number of factors must be taken into account, and the participants of the "First West African Conference in Comparative Criminology" (Abidjan, 1972) came up with several, the main ones being the following:

- After the Independence, a great many persons, called upon to take up the responsibilities of the nation, saw their social status soar as their influence and functions grew. A political and administrative elite was thus quickly formed in order to take over from the colonial administration. In certain cases, of course, this social upgrading gave way to fraud or misappropriation of public funds. Given this extremely rapid upward mobility of the men in politics and the intellectuals, certain petty officials and minor executives, etc., not always up to the office they held, resorted to illegal means to improve their prestige and their socio-economic status.

- Partly responsible for all kinds of fraud was the disparity between a budding industrialization unable to furnish enough jobs and a rapidly increasing population, for it widened the gap more and more between needs, real or artificial, and incomes.

- On the other hand, the clan required considerable financial aid from its socially successful members; thus a person without means and not wanting to admit his low income - so as not to lose his prestige among his people - could be prompted to resort to fraud or swindling.

According to a study done by Michotte (1967) on a village of the Béoumi region in the centre of the Ivory Coast, almost 10% of the annual budget is spent on meat and drink for sacrifices and an additional 5% for funeral feasts. Knowing the average income per person to be about 14,000 F., C.F.A. (about $70.00) one can imagine the significance of this expenditure. Counting presents given on holidays or anniversaries, 20 to 25% of the family budget is used for expenditures that a Westerner would consider extravagant for a country where many of these are made out of urgently needed money (see: Hassenfratz, 1974, p. 80). Members of a village who live in the city or who belong to the civil service pay their quota and some even find themselves forced to contribute beyond their means.

A study by the Department of Planning, back in 1965, estimates that 47,000 persons, or 14% of the population of Abidjan, were being supported by parents, fellow villagers or friends. While waiting for a job and a place to live, they had to depend on a member of their family or clan. 85% were under 20 years of age. Hassenfratz (1974) estimates that

in 1973, the number of persons in Abidjan supporting relatives or peers was about 100,000. A thorough investigation led by Gibbal (1974), in the neighbourhoods of Marcory and Nouveau Koumassi, shows that the 947 homes studied in Marcory had an average of 6.47 dependents, and that 937 of those in Nouveau Koumassi had 3.04. Among the school age population, 331 students out of 1,422 (13,27%) in the former and 94 out of 540 (17.4%) in the latter, were children entrusted by their parents or members of the same village to the care of a head of the family established in Abidjan. In addition to this direct burden, it seems that altogether (that is, in both samples) 89% of the households were helping in money or in kind, at least one person outside their own home (generally living in their village of origin), 71% at least two, and 43% at least three.

Corruption is widespread in underdeveloped countries during the transition from tribal life to city life, for modernization and industrialization take place without the concept of "nationalism" being inculcated to replace duty to the clan and ethnic group. As Clinard and Abbott (1973) point out, the African nations are new conglomerates and the idea of national interest has not taken hold whereas loyalty to the group remains very strong. It could very well be that the difficulty for the African to conceptualize the existence of a "national good", a "common heritage", which goes beyond the limits of the ethnic entity with which he identifies himself, makes him more disposed to appropriate public funds for his personal use. He may look upon this as a loan, a transfer of funds to more concrete groups which exert pressure on their members to

obtain some of the benefits of the economic development ("to steal from the State is not stealing", especially when it is to assist one's ethnic group).

For the western criminologist, there is a strong temptation to look upon influence peddling, the misconduct of officials, the breach of trust and fraud which seem so prevalent in Africa, as white collar crimes. For "civilized" observers, (among whom this type of delinquency is much better disguised), these acts arouse strong disapproval, sometimes tinged with hyprocrisy or condescension, as if they were a natural manifestation of "primitivism". W. Arthur Lewis, in his very severs censure of the governments of developing countries, gives vent to this temptation, but he does show the connection between the economic under-development and the poor administration of public affairs:

> One of the inherent problems of backward countries is that they need better government than developed countries, precisely because they are backward, but they get the worst governments, precisely because they are backward (1955, see: Bentsi-Enchill, 1969).

Added to this, and what we tend to forget, is that the corruption and swindling which many consider characteristic of the political structures of under-developed countries, does not always have the same egotistical motivaton as that of the respectable and socially high-ranking persons or commercial and financial establishments of rich countries who practice all sorts of fraud and economic crimes with impunity - crimes that cost the nations far more than common law infractions. In the African states, much of this delinquency is prompted by the demands made on members of associations and groups. The motivation, therefore, is often

altruistic. This makes an important difference. Andreski (1968) shows the influence of family solidarity on this type of criminality. He refers to all the things that are expected of an African who has attained a good position.

> He will be required to get jobs for hundreds of members of his tribe, to give proper presents to a vast number of relatives as well as to the Elders when he visits the village. He will be asked to make contributions befitting his position in the association formed by people from his village who live in the same city, to provide food and lodging in his house for relatives who come to the city to look for work and who are unable to find a job for months and even years, to help pay for the education of the children of his poorer relatives, and last, but not least, to contribute to festivities and the cost of sacrifices and funerals (including his own) besides giving to the church. Since he cannot meet so many obligations on his own salary, he will be forced to demand bribes, to misappropriate public funds, to seize upon everything he can, etc.

Then, too, many people in the cities live beyond their means for they must give the appearance of success, which is being measured more and more by the possession of material goods. Thus some of them become involved in ever-increasing debt and resort to fraud in order to get themselves out of the mess.

Finally, the example of corruption and the misappropriation of public funds comes from the top and cannot do other than influence the lower echelons. In April 1973, it was learned that in Yaoundé, in the Cameroons, 30 civil servants were arrested for the misappropriation of some 500 million francs. About the same time, a similar case was discovered at Dakar, in Senegal. In March 1973, two high officials in the Ivory

Coast, the Director General of the "Caisse Nationale de Prévoyance Sociale" and the Administrator of the Treasury, were condemned to 20 years in prison for having embezzled 427 and 140 million francs C.F.A. respectively. During the trial in the capital, we were told that some people expressed the opinion that the denunciation of these important men was part of a purging process or matter of vengeance. It was evidently hearsay, but it is not unlikely that certain individuals serve, now and then, as scapegoats. At all levels of public administration there are people in office who cash in on their position of influence. Examples of this are the male nurses who sell medicines they are supposed to distribute free of charge, customs officers who keep confiscated articles for themselves and policemen who extort money from automobile drivers, etc.

In March, 1975, five policemen were arrested in Abidjan for taking bribes. These policemen demanded sums of money from taxi and minibus owners:

> Thus, for example, regular and licensed users of the Abobo-Gare and Yopugon lines paid 200 francs morning and night, whereas others who were not licensed paid 500 francs. If they did not, they risked having some part of their vehicle confiscated until... they came to "terms". This "patronage" collected by the police officers could generally reach an amount of thirty thousand francs a day for each zone.
> An investigation was made, which at the outset, afforded the discovery, in the watch-station situated on the Abobo-Gare road, that the personal wallet of Djiman Y Jean contained 17,775 francs. The latter and his colleague, Biankpin A. Jérôme, admitted having received this money from people using the route as "tips" for "services" they had rendered by not scrupulously applying the traffic laws. (...) (Fraternité Matin, March 7, 1975).

It seems reasonable enough to relate the widespread use of these illegal practices in Africa to certain basic aspects of traditional community life, where relationships are based on mutual exchange, on what Malinowski (1970) called a constant "give and take". More detailed studies could point out the cultural aspects that support and motivate these various forms of fraud and malpractice.

The survey carried out in Abidjan shows signs of these aspects. According to 46.8% of the 1,000 persons questioned, when drivers are stopped for a traffic offence they generally give the policeman "a small gift". An almost equal proportion of the respondents (46.3%) said that traffic violators paid their fine. The frequency of this gift giving (from hand to hand), as estimated by the interviewees, is very high: 63.2% admit that it happens - sometimes (19.3%), often (24.4%), always (19.3%), whereas only 26.2% believe it occurs rarely (14.5%) or never (12.2%). This practice seems to be considered less a form of breach of trust than a transaction that establishes a bond between the authority (the policeman) and his obligee (the traffic offender). The gift of money serves to confirm the prestige of the former while rendering a service to the latter, who avoids all the inconvenience of having to pay his fine at the police station (loss of time; being placed on record; temporary suspension of driving license if a second offence...). It is a truly an "exchange" of services, for both parties gain by it.

B - Drug offences

Where drugs are concerned, we must point out that, in the majority of cases, it is a matter of minor drugs: marijuana or other similar

products; more rarely amphetamines. The Indian hemp comes from foreign countries (Senegal, Guinea, Ghana, Nigeria). Ghana is the main producer - 246 kg seized from 1958 to 1968, against 47 kg in the Ivory Coast (Hassenfratz, 1974). There does not seem to be any serious drug trafficking in the Ivory Coast at the present time. For the infractions of this type that are known, 64% occur in the cities.

C - Counterfeiting

The number of charges laid for this type of offence, both in the city and the country, may seem surprising. In 1970, there were 329 cases, two-thirds of them in the urban areas. In many cases, these infractions are much more a form of swindling than an attempt to circulate forged bills on the market. In addition, a close examination of the cases of forgery apprehended by the police and constabulary reveals the fact that this infraction is often connected with a belief in magic or sorcery.

Jacobs (1972), in his monograph on the "multiplication of bank notes", counted 40 cases of this type of counterfeiting for the years 1970 and 1971, and these only in the records of the Abidjan police services. The scenario hardly varies from case to case: someone who calls himself a "marabout" or healer, endowed, therefore, with supernatural powers, offers a potential victim to obtain money for him by multiplying once, twice or ten times a sum of money which the "greenhorn" is quite willing to give him to begin with. This multiplication is done by magic. There are many procedures used, most often that of the "valise" and one called "aux papiers noirs".

In the first case, the victim is invited to put a certain sum of money in a valise. The marabout either keeps the valise or buries it, the process of multiplication requiring a certain lapse of time. Several days later, the valise is opened in the presence of the swindler and the victim can see for himself that his money has increased. Meantime, the money has been replaced by forged bills of rather poor workmanship, or piles of white paper hidden under real bills. The confidence of the client having been obtained, he is persuaded to amass a large sum which is taken from him; he is then given back a valise filled with paper which he must not open before a day or two. This gives the marabout and his accomplices time to get away.

The procedure "aux papiers noirs" is more crafty and more complex. The charlatan presents his victim with pieces of black paper, cut in the form of bank notes of a thousand or five thousand francs. Each piece of paper is supposed to be able to change into a real bill. To prove it, the multiplier soaks some real money, previously blackened with tincture of iodine, in a solvent (hyposulphite). His victim, fascinated, sees the black paper change in an instant, just like a polaroid photo, into authentic money. As soon as the client is convinced of the magic power of the liquid, the multiplier sells him the bundle of black paper (in photo wrapping) and the miraculous fluid for a fraction of the amount the magic formula would be able to produce. The healers then disappear. As for the victims, many dare not lodge a complaint, either because they are afraid of what might happen to them for participating in a magic ritual or for fear of being involved in an illegal transaction. The sums lost by victims in this way vary from 10,000 to 50,000 francs. In one case, someone paid a healer as much as 4 million francs (20,000 dollars).

Every year, the only daily paper of the Ivory Coast, "Fraternité Matin", reveals several cases of this kind of swindling and tries to warn the population against these magicians; it is a vain attempt, however, for the mass of people do not read the newspapers. On the 14th of February, 1975, there was an account of a typical case of the multiplication of bank notes. Two persons, Nouama Elvis and Kouakou Appia, both from Ghana, were condemned to 18 months imprisonment for swindling. They had persuaded a man named Agoussi to meet with a Liberian sailor by the name of James, who had the power to quickly and easily assure them an immense fortune. The meeting took place in the village of Locodjro, near Abidjan:

> James was evidently prepared to make M. Agoussi a millionnaire, if he so desired, and then and there the sailor took a negative out of his pocket and washed it with liquid from a flask he held in his hand: a 1,000 franc note appeared! (This set the stage, of course).
> M. Agoussi could not believe his eyes. His intermediaries then asked him for 300,000 francs which they would turn into 15 million francs for him. Keenly interested, the victim led them to his house where they saw the 300,000 francs. But the 15 million had been promised for the following day. The next day, then, our three young swindlers brought a closed package to M. Agoussi, which they gave him, saying: "This parcel contains the 15 million we promised, but take care: for the operation to succeed, you must not open it until tomorrow morning! But give us the 300,000 francs first before we hand it over to you!"
> This the complainant did in order to gain possession of the package, whereupon the three bandits disappeared. How long this night must have seemed to M. Agoussi! When morning came, burning with impatience, he opened the parcel... but, my God! he nearly went out of his mind, for it contained not one franc! (Fraternité Matin, February 14, 1975).

What seems to be only a grotesque deception, a scarcely imaginable booby-trap, takes on a different aspect when seen in the context of the cultural changes in Africa. This type of crime is spreading (10 cases in Abidjan in 1970, 30 in 1971) and shows that the belief in magical power is exploited by the unscrupulous, but in psychological terms, this credulity stems from the hope of satisfying the ever more urgent need for riches, born of the economic development. If, in the villages, sorcery can have the power of life and death, why could it not offer this new symbol of prestige, wealth? In any case, the very existence of this infraction shows the extent to which faith in magic is still alive today, even in the large cities.

This type of fraud is not exclusive to the Ivory Coast. According to the information obtained by Jacobs (1972), of the 52 persons who were found guilty in the 40 cases studied, there were only nine from the Ivory Coast. The others were all Africans from neighbouring territories (20 from Upper Volta, 5 from Ghana, 5 from Nigeria, 4 from Mali) or more distant countries (Senegal, Guinea, Dahomey). The author further states that in the course of his investigation, he learned that those who were from foreign territories, adjacent or not, came to the Ivory Coast to get a supply of the equipment necessary for this procedure (of multiplying bank notes) in order to use it in their own countries or some other region.

D - Moral offences

As in the case of property crimes, life in the large cities seems to foster a greater number of sexual offences than that in the country

(316 of the 451 complaints received came from urban areas, that is, 70%). The majority of these charges concerned cases of adultery. With regard to other offences, in 1971, the Ivory Coast courts registered 13 cases of procuring that came only from the cities of Abidjan, Bouaké and Daloa, and 4 cases of soliciting. This same year there were 36 complaints of rape, half of which were lodged in Abidjan, and 253 of the violation of minors under 15 years of age; most of the charges were from urban jurisdictions (Abidjan, Daloa, Divo, Gagnoa and Man). It seems that many cases of rape as well as immoral offences are disguised under the charge of child molesting. This is the conclusion arrived at by the inquiry undertaken by Hassensfratz (1974) among prisoners in the Abidjan jail. Almost all of the 12 persons there who had committed rape or immoral offences had been prosecuted for child molesting, a less serious charge than that of rape.

There is no denying that the urban milieu, as it has been developing over the last ten years in the countries south of the Sahara, creates upheavals that multiply the risks of immoral offences. There is a marked imbalance in the sex ratio. The cities are the arrival points of immigrants who come from poorer countries and rural areas to find a job and escape the poverty of village life. A study by Kohler (1971) on the migrations of the Mossi of the West, in Upper Volta, shows that in the region studied, 76,000 persons out of about 480,000 inhabitants (16%) were absent from their village during the dry season in 1970. Of these, four out of five were in the Ivory Coast, one out of six in a city in Volta and the rest in different regions of Upper Volta. According to the data obtained, 71% of the inhabitants of the localities studied had migrated at

least once. As one respondent told the author, "only the mentally deficient and legless cripples do not go to the Ivory Coast to make some money" (p. 156). This migration, as Remy (1973) says, "enables the youth to get out of their present situation, to escape the endemic poverty, and to free themselves of the control of the elders" (p. 71).

There are two important aspects, then, to the rural exodus. One is the attraction of the large cities as a source of wealth; the other a desire to escape the rigid restrictions of the traditional structures. During the survey mentioned above, Kohler also questioned 300 Mossi migrants who had come to the Ivory Coast as to their reasons for leaving. 40% had left their village to get the money necessary to pay the family taxes, 20% to obtain the resources for personal projects (construction of a cabin, the cultivation of a plantation, etc.), 11% to buy clothes, hats and shoes, 10% to purchase a bicycle (the ideal medium for social contact between young people) and 8% to pay a dowry and the customary celebration of the engagement. Many country people, however, who come to the city on a temporary basis, end up by settling there after a few episodic visits to their former homes. Rémy (1973) showed that the number of Mossi migrants tended to increase and that the average stay in another country, which before 1965 was 16 months, stretched to about two years after 1965.

Those who remain in the cities are generally persons who have fled from their closed and stagnant community in order to escape a feudal and dictatorial type of authority. For example, divorced women who refuse to remarry according to the customary rules, young people in conflict with their parents, men and adolescents who want to free themselves from the

alienating tribal rules and from an often humuliating dependence and acquire greater liberty. For unmarried women, "migration is a means of getting away from the restraints of the traditional milieu or resolving the conflicts they create, and of putting aside a nest egg for themselves" (P. and M. Etienne, 1968). The young have similar reasons. In Mali, after the colonization, the youth were called "Toubab Kle Den" or "makoro": children born under the sun of the Whites. Sanogho (1976) observed that these young people left the country where life is monotonous (150 days of actual work a year) both to experience the fascinations of the city and in a spirit of adventure.

The mass arrival of men and boys in the large cities creates a disparity in the distribution of the sexes. The male immigrants, who have left their wives in the village or who are unmarried, furnish a clientele for prostitution, which is growing very rapidly in the African cities. This increasing prostitution is directly aided by the ancestral rules of the various ethnic groups, for they forbid inter-tribal unions and severely condemn premarital or extramarital sexual relations. Prostitution is not an offence in itself. At least not in the Ivory Coast. Only procuring and soliciting are prohibited. Because of the demand on the part of the immigrants, it has become a visible reality in cities like Lagos, Yaoundé, Bamako, Accra, Dakar, etc., and shows a conflict of values and a sociological and demographical distortion.

In 1967, DuBois estimated that there were between 2,500 and 4,000 prostitutes in the Ivory Coast, 90% of them plying their trade in Abidjan

(see Clinard and Abbott, 1973). According to the findings of a research team of the Abidjan Institute of Criminology (1972), the Abidjan police services had counted 1,339 professional African prostitutes in November 1967; in 1968 there were 1,673 and in 1972, about 3,000, most of whom were foreigners (see Douyon, 1974). The distribution of prostitutes by nationality, for these three years, is given in Table 16.

Table 16

Number and percentage of prostitutes, by nationality, according to the police estimates for the city of Abidjan, in 1967, 1968 and 1972

Nationality: (Contry of Origin)	1967		1968		1972	
	No.	%	No.	%	No.	%
Nigeria	1 097	81.9	1 200	71.7	2 000	66.7
Ghana	115	8.6	400	24.0	800	26.6
Niger	53	4.0	45	2.7	100	3.3
Liberia	25	1.9				
Mali	20	1.5	7	0.4	30	1.0
Dahomey-Togo	13	1.0				
Dahomey			2	0.1	5	0.2
Togo					10	0.3
Upper Volta	10	0.7	9	0.5	35	1.2
Ivory Coast	6	0.4	10	0.6	20	0.7
TOTAL	1 339	100%	1 673	100%	3 000	100%

From 1967 to 1968, the number of prostitutes went from 1,339 to 1,673, an increase of 25%, and from 1969 to 1972 there was an additional 1,327, making a rise of 79%. In five years the number had more than doubled. The prostitutes were English-speaking (from Nigeria, Ghana and Liberia) proportionately 92.4% in 1967, 96% in 1960 and 93% in 1972. More

than half (53%) were concentrated in the Treichville area, 23% in Adjamé and 7% in New-Koumassi, all points of immigration. The police figures are far from the reality. Furthermore, they do not mention the European prostitutes (mostly French) of whom there are more than fifty, and who, under cover of a job (barmaid, receptionist) work in the most select hotels and in about twenty bars frequented by tourists, visiting industrialists and high officials. Besides this professional prostitution, there are the amateur prostitutes, students, unmarried girls or married women, whose number was estimated at more than 2,000 in 1972.

As we have already mentioned, soliciting and procuring are seldom prosecuted (13 cases for the whole of the Ivory Coast in 1971), due to the apparent tolerance of both the police and the population. The public seems to regard the growth of prostitution in Abidjan with equanimity, for it considers it an outlet for the sexual drives of certain individuals, possibly preventing more serious criminality, especially rape and indecent assault:

> Moreover, in response to an article in the "IVOIRE DIMANCHE" entitled "Why Two-Two?",[1] a great many readers wrote to the editor in defence of the prostitutes. Believing it to be a "good thing", these readers think prostitution "protects marriage": "better a two-two than a mistress!" They say that since the mass installation of prostitutes in Abidjan, it is possible to "take a walk with one's wife late at night without any qualms". They conclude that "to repatriate the foreign prostitutes would have unfortunate repercussions on the social and cultural progress of the country. (Hassenfratz, 1974, p. 209).

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1. The expression "two-two" referred to the two shillings tuppence demanded by the prostitutes for their services.

In Africa, prostitution does not bear as strong a stigma as in the western countries. On the subject of prostitution in Ghana, Weinberg (1973) states that in Accra the emancipation of women and their small number in proportion to the men explains the growing demand for prostitutes. They do not seem to be rejected by society and have even formed an association to protect their interests. Since material success in the cities serves as the measure of personal success, prostitution is one way of achieving social promotion for women who are illiterate and have no trade or the possibility of getting a job. Whatever the case, according to the findings of Weinberg and DuBois (1967), neither in Ghana nor in the Ivory Coast are prostitutes considered pariahs or the riff-raff of society. On the contrary, as they succeed "materially", they acquire a certain prestige in their own milieu and neighbourhood.

Apart from adultery (which constitutes the major proportion of immoral offences) and a few rare infractions connected with prostitution, there are only a few cases of rape (36 charges, in 1971, for all of the Ivory Coast), that are serious sexual crimes. These, too, occur mostly in the cities, usually committed by persons lacking normal affective relationships.

Of the 661 inmates of the Abidjan Prison, as of December 3, 1971, there were only 17 (2.6%) held for immoral offences. According to the information obtained by Hassenfratz (1974) 12 were guilty of rape, 3 of child molesting, one of moral turpitude and one of procuring. Most were in the 25-30 age group. Ten of the 17 were foreigners, from Upper Volta

(4), Guinea (2), Mali, Niger, Ghana and Togo. Fifteen were bachelors, one was married and one a widower. Nine of them were illiterate or had very little schooling (only one had attended high school).

These data, unfortunately incomplete, lead to the conclusion that the persons who commit immoral offences are unable to integrate socially and vis-à-vis their families (foreigners or unmarried country-people), in the context of city life. They live with friends, compatriots or relatives, in close quarters conducive to temptation. Being unemployed, these men are often alone in the house with the women, especially the young girls, while their hosts are working. The information given in the files of the 12 inmates convicted for rape show some evidence of this, for the victims were 18, 14, in two cases 13, in two others 12, in one 10, another 8 and two cases 6 and 5 years of age.

> In most of the cases, the victims were either relatives or neighbours of the offenders. The constant presence of the young girls in their room or in their lodgings awakened a sudden and irresistible desire... In four instances, the victims were unknown to the offender, however; they were lured either to the latter's home, to the bush or into a car under false pretences in order to sexually molest them. (...). Two of the raped victims died due to hemorrhaging or brutal treatment. The authors admit the facts but find no explanation for their misconduct. They are all unmarried, with the exception of one widower (Hassenfratz, p. 179).

E - Offences against persons

Unlike the types of infraction against property just mentioned, and also unlike sexual offences, the rate of crimes of violence is much

higher (almost twice as high) in the rural regions (15.79 per 100,000 inhabitants) than in the cities (7.84 per 100,000 inhabitants). The police statistics of the Ivory Coast show that, in 1970, of 818 violent crimes (murder, assault and battery, attempts, etc.) 706 or 86% occurred in the back country. In a previous chapter analyzing the criminal offences in traditional societies, and describing them as they still exist in the bush, a great deal was said about homicides and their motivation. It seems needless therefore, to go over it again.

What must be kept in mind is that adultery, domestic quarrels, provocations and disputes of all kinds often give rise, in the villages, to fierce confrontations between clans or between kinsmen. The rural life, essentially communal, "collectivizes" these conflicts, so that in agrarian or pastoral societies, a dispute over a dowry or land boundary, for example, will often degenerate into a pitched battle between two families. There may be four or five, even 15 to 20 persons involved in a brawl. In the jurisdiction of Divo alone, during 1971, there were more than 15 cases of assault and battery in which four to ten people took part.

According to the judicial statistics (Department of Justice, the Ivory Coast, 1971), the serious crimes against bodily integrity included 55 murders, 26 attempts at murder or assassination, 4 infanticides and 91 mortal blows. 78 of these cases, that is, 44%, were brought before the Abidjan court alone. Apparently the villagers are not more guilty of murder than the city people. On the contrary, what most often occurs in small settlements are acts of violence, assault and battery and brawls, that can result in more or less serious injury. The Abidjan court, which

serves as a point of comparison, receives a much smaller share of this type of offence, for it amounts to only 24.9% of the total (1,232 complaints out of 4,943).

This necessarily brief general description of the differences between urban and rural crime was intended to point out that the way of life, the very social fabric of the human relations, because they are different in the two contexts, evoke distinctive ways of expressing aggression. In the city, where individualism, material and personal well-being are all-important, and where consumer goods are symbols of prestige, the urge to appropriate objects that are prized by an industrial and capitalist society is very strong. Thus the emphasis on fraud. The lure of the city also gives rises to the rural exodus we described earlier, creating a working class of immigrants and an unbalanced sex ratio, factors largely responsible for most property offences and the development of deviance such as prostitution and vagrancy.

Village life, on the other hand, as a collective society, keeps the members of the community deeply involved in communal activities of common interest. Thus the close ties between the families and kinfolk inevitably give rise to conflicts over matters such as the exchange of women as the customary dowry, relationships at work, the division of labour and the sharing of its produce, problems of succession, debt and credit... It would seem a bit of an exaggeration to conclude from this that the country folk are more violent than the city people.

Certain subtle distinctions should at least be made concerning such an assumption. In the bush, acts of violence are intensified, for the social structures call for a solidarity that obliges entire families to take part in any dispute. A more thorough analysis would no doubt show that the cases of physical violence here are not necessarily more numerous, but that they involve a larger number of protagonists. This is not quite the same thing. This more subtle view would prevent hasty value judgments that reinforce the stereotype of the country as a rarely policed milieu where, as Seid (1968) said, the individual can give free rein to his passions and instincts.

This overview of the crime situation in Africa, particularly as it exists in the Ivory Coast, cannot be other than superficial. However, this was not meant to be an exhaustive study. Our object was simply to point out that the delinquent behaviour is due to a combination of multi-dimensional factors that are determined by the social conditions of the people, their culture, their institutions, their resistance to change, their degree of socio-economic development and their acceptance of a new political and national reality.

On the other hand, the crime in black Africa that is available to the researcher for examination is but one aspect of the deviant behaviour that exists within the various communities. It can be studied only if one is aware that the known crime is due to the activities of the criminal justice agencies (necessarily limited by the personnel available, and their ability to cover the territory and detect illegal practices) and the willingness of the public to trust in the modern criminal justice, to have

recourse to it and collaborate with its policies for prevention, repression and rehabilitation. The public's attitude toward crime and the justice system is of the essence, for without the support and active participation of the people, how can justice be administered? If justice is functioning so badly in Africa, the question is whether it is not simply because it does not correspond with the role and objectives the people would assign it or would like to be applied!

Chapter VII

The attitudes of the African people vis-à-vis crime and the modern criminal justice system

> In order for the judicial machinery to run, it must receive an impetus at every stage. Should it break down at any one point, the machine stops, meaning failure for the policeman and impunity for the criminal (Casamayor).

If we are to trust the official crime statistics furnished by the African countries, juvenile delinquency and adult criminality are not social pathologies serious enough to warrant government or public concern. The official rates of crime in the African states are relatively low. They fluctuate between 100 and 1,000 per 100,000 inhabitants, whereas in Europe and America, they vary between 2,000 and 7,000. Where Africa is concerned, however, this low rate of crime is artificial and misleading, for on the one hand, the systems of criminal justice are little developed, and on the other, their function is taken over in a good many cases by the customary institutions, which still have a strong hold.

In developing countries, too many economic and social priorities seem to be sharing the meagre budgets for much attention to be given to the crime situation. Many people think that criminal justice concerns only a deviant minority and consequently do not see why special efforts should be made to fight crime. For them, the most urgent problems are those that affect the entire population, such as agriculture, urbanization, education, health, housing and employment. At least this was evident in the answers given by the citizens of Abidjan during a survey carried out in 1974, in which they were asked to choose, from a list of six, which they felt should be the primary concerns of the political authorities.

Table 17

Social problems chosen as being the most important by a sample of the foreign and native population of Abidjan, 1974

Social problem: priorities	% of the total population	% of natives	% of foreigners
Improvement of the living conditions of the most poverty stricken	52.6	50.8	54.4
Making education available to all	16.1	16.2	16.0
Measures to prevent crimes and arrest the criminals	12.1	12.2	12.0
The setting up of more industries	6.4	9.8	3.0
Universal measures for hygiene and health	10.1	8.0	12.2
Development of the rural regions	2.7	3.0	2.4
TOTAL	100.0	100.0	100.0
Number surveyed	(1,000)	(500)	(500)

During a NORC (National Organization for Research on Crime) survey, a similar question (bearing on poverty, inflation, education, crime, race relations and unemployment) was asked in the United States (Katzenbach, 1968). The answers show that crime was in second place after segregation (except for the blacks, who put low income - less than $6,000 - first, education second and crime third). Overall, the percentage of Americans who chose the crime situation as being the most crucial for the

nation varied between 19 and 27 percent. In Abidjan, the fight against crime takes third place for Ivory Coast natives and fourth for newcomers. The percentages, around 12%, clearly show a preoccupation with concerns other than the prevention and suppression of crime - first and foremost, improvement of the living conditions of the poor.

Although comparison between the United States and Abidjan is hardly valid, it is revealing, just the same, that in the case of the former, twice as many persons considered delinquent behaviour one of the most disturbing aspects of community life. Obviously their criminological situation is not the same, nor is their economic environment. In Abidjan, the concerns of the natives and other Africans are directly related to the changes in the way of life brought about by the industrial and cultural development and, above all, to their aspirations for improvement; education, for example, (ranking second among public concerns) is one of the main means of access to a better life. As opposed to this, there is little interest in developing the rural regions, no doubt because the back country, in the minds of the city dwellers and immigrants, is a symbol of poverty - one of the evils the government should give first priority. The relative insignificance the public seems to accord the suppression of crime and criminals will be dealt with presently, but at first glance, it is in striking contrast with the attitude of the government authorities, which have adopted stringent crime policies.

The penal philosophy of the governments and the public in Africa

On the African continent, the death penalty is universally applied for all political offences, that is, any attack against the security

of the State. The nations, artificially constituted, are made up of often antagonistic ethnic groups, once autonomous kingdoms, and populations separated by frontiers drawn without any consideration for social and cultural bonds, all massed together under the same flag. This puts the governments in an uneasy and unstable position, for its members, who belong to various different tribes, must extend their authority to all ethnic groups.

Since the states became independent, their political history has been marked by a race for power between rival groups; this has given rise to civil wars, coups d'Etat, bloody suppressions and constant rivalries, some of them unforgettable. There was the war between the M'Bochi, of the North of Congo-Brazzaville, and the Ballali of the South, led by Jacques Opangault and Fulbert Youlou respectively; the secession of Kantanga in the Congo-Kinshasa, where the recent outbreaks in 1977 shook the entire country of Zaire; the ethnic rivalry in Nigeria between the Northern tribes, the Islamic Haoussa, and those of the South, particularly the Ibo, (Christian converts, and along with the Yoruba, the intellectuals of the country) which caused the separation of the Biafrans who proclaimed themselves an independent republic on May 30, 1967 (the civil war that followed soon took on the aspect of true genocide, the Nigerians practically wiping out the Ibo); the bloody confrontations in Ruanda between the Tutsi (a minority group, but traditionally the dominant class) and the majority Hutu which forced a good number of premiers to seek refuge in Brundi, etc.

The nations are still in the process of consolidating their frontiers and conciliating traditional inter-tribial hostilities. Thus the

political situation everywhere remains tense and often explosive, bringing about the establishment of authoritarian, dictatorial or military regimes that are based on a single party. The administrators, meantime, confronted with the crucial problem of economic development, look upon traditional crimes, in themselves a cause of disorder, as a political problem, since they can hold back economic progress. This, in addition to the weak position of the governments, makes them all the more strict in the suppression of any act that threatens law and order. Hence in the domain of social defence, the trend is much more repressive than rational.

The African governments - while cognizant of the fact that the increase of crime can endanger economic and social development - do not have the financial means or the human and institutional resources to devote much energy to a problem that, when all is said and done - however worrisome - is limited to the urban areas and does not yet appear to be as urgent as that of improving the lot of the citizens. The politicians know very well that "an empty stomach has no ears" and that it is more practical politically to try to raise the people's standard of living and thus establish their authority more securely. Their crime policy is to act at once, extremely rigourously and visibly, in the hope that punishment will serve as an example and discourage would-be offenders. In the end, this only serves to hide the causes, the inequalities, responsible for the diverse social pathologies, as well as the incompetence, negligence and ineffectiveness of the penal agencies and their agents, because they are insufficiently developed and too few.

In Uganda, Kenya, Zambia and Nigeria, the use of the death penalty was extended to thefts with violence in order to combat the increase in armed robberies:

> Ten offenders, one a soldier, accused of several armed robberies, were publicly shot at Kolba, in central Nigeria, on Saturday, October 7th. This execution brings to 184 the number of persons shot since the military government decided, in 1970, to shoot common law prisoners ("Le Monde", October 10, 1972).

To give more weight to these punishments, they were carried out publicly in stadiums where the curious would gather:

> Whereas during 1971, Nigeria publicly executed more than 40 persons for armed robbery, four of them at one time in Ibadan before thousands of spectators, Nigeria continued to have an extremely serious armed robbery problem in 1972 (Clinard and Abbott, 1973, p. 248).

Evidently, dissuasion depends primarily on what the delinquents and criminals believe are the probabilities of being caught and arrested. The official statistics show (by the lowest reported crime rate in the world) that the chances of an offender being discovered by the police are slight. Notwithstanding, the legislators everywhere adopt very punitive laws vis-à-vis criminals. In the Central African Republic ("Empire" since December 4, 1977), an order passed June 7, 1968, provides the death penalty for anyone who commits armed robbery. The same is true of Madagascar, where, in addition, by orders enacted the 27th of September 1960 and the 18th of October 1961, cattle thieves were liable to imprisonment for life

or the death penalty. In Guinea, according to the newspaper "Fraternité-Matin" (Nov. 12, 1972), President Sekou Touré, too, declared that cattle thieves would be put to death. In Zaire, a law passed on May 3rd, 1968 (Decree No. 68/193) made the death penalty applicable to provocateurs and leaders of gangs formed for the purpose of attacking persons or property. It also applies to any member of such a gang as well as anyone who knowingly and voluntarily supplies it with arms, ammunition or offensive weapons.

These extreme measures against robbery seem to have been taken not so much because of a sudden spate of known crime (in 1972, Zaire and Nigeria had rates of only 107 and 182 per 100,000 inhabitants: see Interpol 1971-72), but due to a disturbing and unpredictable increase in delinquency. The policies adopted reflect a feeling of panic regarding the "change" in criminal behaviour, which was no longer of a traditional nature. To illustrate this state of anxiety, this feeling of impotence in the face of the "new criminality", there can be no better example than an article that appeared in the Abidjan daily following a hold-up in that city, where, incidentally, six is the sum total of armed robberies per year. On October 29th, 1974, a particularly daring and well organized "coup" against the Société Générale des Banques of the Ivory Coast (the first bank robbery here) netted the criminals nine million francs C.F.A. ($45,000). The report in the paper read:

> "Abidjan is another Chicago, this is an era of good-for-nothings. There is no longer any distinction between offenders. Anyone can attack anything at all. And if something

> goes wrong, they shoot." These are the comments of a police commissioner. There is a sense of sadness, of regret, in his words. Regret for a time when policemen and thieves knew one another, when things took place with a certain style. Now there is only cold violence. Another policeman remarked: "The offenders are no longer afraid of us and this is a serious matter. We are heading straight for catastrophe". (Fraternité-Matin, Monday, November 4, 1974).

In the East African countries, organized crime and violence are more prevalent. Clinard and Abbott (1973), in a report on crime in Kenya, state that between 1970 and 1971, there were 23 bank robberies, committed in full daylight, which yielded their authors more than $200,000. In Uganda, there has been a proliferation of what is called "kondoism", meaning armed robbery or acts accompanied by physical violence. According to Mushanga, the cities of Kampala and Jinja are the most often stricken by this scourge which, by all indications, is spreading to urban areas much farther away.

In the face of such acts, public opinion in the cities was aroused and more severe measures demanded. Businessmen and industrialists, the most vulnerable, put pressure on the government to adopt stricter laws in order to put an end to what they saw as an increase in crimes of violence. On August 5th, 1974, the legislator of the Ivory Coast therefore made some major changes in some of the clauses of the Penal Code in order to pacify the people. From then on, anyone committing or attempting to commit theft, whatever its nature or the offenders's motive, would be sentenced to from five to ten years' imprisonment. If the theft were accompanied by aggravating circumstances, the prison terms would be increased

to from ten to twenty years (Act No. 74-386, Ivory Coast, 1974). Clinard and Abbott (1973) have stated that if, in developing countries, the Criminal Codes were to be revised in accordance with public opinion, the sentences would become much more severe. There is no doubt about this.

According to a study made by Clifford (1964) on a representative sample of the African population of Lusaka, in Zambia, the majority of persons questioned felt that criminals were treated too leniently. They all thought that murderers should be hanged and that prison sentences should be longer. They also considered adultery a serious crime, and consequently demanded more severe punishment for the men as well as the women. Most of the respondents were of the opinion that prison conditions should be more arduous. Ten years after Clifford's survey in Zambia, we arrive at the same results with the African population of Abidjan.

In effect, of the 1,000 persons questioned in the Ivory Coast capital in April 1974, 70.2% considered the courts too lenient towards offenders; 81.8% claimed that if the judges were more severe, there would be fewer thieves; 82.8% said they were in agreement with the death penalty for murderers, 76.8% for its use in cases of armed robbery, and a considerable proportion extended it even to those responsible for theft with assault and battery (52.4%), arson (49.7%), abortion resulting in the mother's death (47.6%) and serious cases of assault and battery (40.1%). To a lesser degree, capital punishment was advocated for rape of a little girl (34.5%), for sorcery (32.6%), for drug trafficking (32.4%) and for misappropriation of public funds (20.5%). Furthermore, like the people of Lusaka, 59.4% of the Abidjan residents felt that offenders were too well treated in the prisons.

In view of some of the repressive laws that prevail in Africa and the support they receive from the people, one might conclude that the Africans are particularly punishment oriented. This could partly account for the opinion of the first colonizers who considered them "barbarians". To judge them as such is unfair, since it is an assumption made without taking the cultural context into account. True, in Central Africa, on the 31st of July 1972, in Bangui, about forty thieves were subjected to public floggings, and President Bokassa himself, verbally and by gesture, encouraged the soldiers during the punishment. The outcome: three dead, their bodies exhibited in the public square along with the survivors, bleeding and in chains.

> Bokassa has decreed that the following penalties be applied to thieves: "First theft, an ear cut off; second theft, the other ear; third theft, amputation of the right hand; fourth theft, public execution." Kurt Waldheim, who has protested, is called a "pimp, a colonist and imperialist" (Le Nouvel Observateur, No. 682, 5/11 Dec., 1977).

We are less concerned, however, about the attitudes of Westerners towards what they consider excessive measures, inhuman and horrible, than we are about those of the Africans themselves. It is not so much a question of judging, but of understanding. In Clifford's study, already mentioned, most of the 70 persons questioned at Lusaka (a small sample, but according to the author's statement, "articulate and wholly representative" p. 484) asserted that fines and sentences of "six months" imprisonment should be abolished and the delinquents put away for a least five years. These opinions expressed in Zambia correspond with the reality, for the Africans of the Ivory Coast share them to the point where the government

there, as we have said, made five years the minimum term of imprisonment for theft, even such a minor one as stealing a pencil or a piece of fruit. The same is true of Uganda. When the residents of shantytowns in Kampala were asked what should be done to reduce crime, the most frequent answer was to "give longer sentence" (Clinard and Abbott, 1973; p. 231).

Most of the persons interviewed by Clifford's team added that, in the penitentiaries, corporal punishment should be administered regularly, and they also said they were in favour of forcing the prisoners to do hard labour from morning to night. From this perspective, there was nothing scandalous for the Central Africans about the beating of the offenders at Bangui. If this had been the case, Bokassa - jealous of his image as future "emperor" - would certainly not have carried out the bastinade in public, but discreetly behind the prison walls. On the contrary, this action was no doubt taken to show the citizens that the government had no intention of either allowing criminals impunity, or of tolerating an increase in crime without energetic intervention by the political authorities to curb it.

These social reactions and attitudes must be interpreted in terms of the traditional way of thinking. The assassination of thieves by the victims or witnessess - and these are known to be frequent, at least in Uganda and the Ivory Coast - shows the people's extreme aversion to theft and the spontaneous reprisals they take against the offenders. If the Africans are in favour of very severe prison conditions, it is partly because, being not well off themselves, they do not see why those who contravene the laws should enjoy privileges which most of the citizens do not have (lodgings, their meals assured and apprenticeship in a trade, etc.):

Table 18

The frequency, according to the native and foreign population of the Ivory Coast, of the Illtreatment of thieves by the witnesses before he is handed over in the police
Abidjan, 1974

People beat the thieves	Ivory Coast natives		Other Africans		Total	
	No.	%	No.	%	No.	%
Always	218	43.6	202	40.4	420	42.0
Often	154	30.8	153	30.6	307	30.7
Sometimes	64	12.8	66	13.2	130	13.0
Rarely	42	8.4	32	6.4	74	7.4
Never	20	4.0	40	8.0	60	6.0
No answer	2	0.4	7	1.4	9	0.9
TOTAL	500	100.	500	100.	1,000	100.

thieves are foreigners. This is an important point. In effect, among the population surveyed, 71.2% claim that it is the foreigners in the Ivory Coast who are responsible for most of the thefts and other crimes. However, our sample was made up of 500 Ivory Coast natives, but included 500 Africans from other countries.

As could be expected, the Ivory Coast natives have a marked tendency to blame the immigrants for the crimes and offences, 91.2% of them asserting that it is people from the neighbouring countries who commit most of the infractions. What is surprising is that a majority of the foreigners themselves, 63.2%, share the same opinion. Where the points of view of the two groups differ, there are several factors at play: a

veritable xenophobia on the part of the nationals; a more frequent reporting of the criminal conduct of immigrants (we have seen that the latter had less chance of resorting to customary procedures to settle their differences out of court); embarrassment on the part of the foreigners to characterize themselves as being more criminal than their hosts (16.6% of them did not answer the question concerning whether or not non-natives were responsible for the majority of the infractions, against only 1.8% of nationals who did not reply).

The two groups, however, have similar answers concerning the frequency of maltreatment at the hands of the witnesses when thieves are caught in the act. Both natives and foreigners think that this happens "always" (43.6% and 40.4% respectively), "often" (30.8% and 30.6%), "sometimes" (12.8% and 13.2%), "rarely" (8.4% and 6.4%), "never" (4 and 8%). The other variables, sex, age, schooling, make no significant difference.

It might be assumed that, since the majority believes that the beating and punishment of offenders by the people is very frequent, it implies implicit public approval of these practices. They would be a continuation in the urban milieu of the lynching of thieves that goes on in the bush - a sort of immediate emotional reaction that is meant to match the magnitude of the threat to a norm considered essential for the peace of the community. By not respecting ownership rights, the thief upsets the entire social equilibrium which depends on mutual confidence, solidarity and cohesion. Theft, apart from the value of the object, is seen as an attack on the foundations of society which are essential for the viability of the group. For this reason, the maltreatment of thieves should no doubt answer the general will of the public. It shows the

people's concern over an act that goes against "sharing" and "exchange", which are the very basis of all interpersonal and group relationships in traditional societies.

In our questionnaire, in order to ascertain the approval of the population, we asked the direct question: "Some people think it is a good thing for the citizens to punish thieves publicly as it serves as an example to others. Do you agree entirely, somewhat, not completely, not at all?" The answers are given in Table 19.

Table 19

Attitudes of the population according to origin, sex, age, schooling, regarding public punishment of thieves by the citizens. Abidjan, 1974

It is a good thing for citizens to publicly punish thieves	Agree		Disagree		No answer	
	No.	%	No.	%	No.	%
Origin						
Ivory Coast	400	80.0	97	19.2	3	0.6
Foreign country	362	72.4	138	27.6	0	-
Sex						
Male	547	73.2	199	26.6	2	0.3
Female	215	85.7	36	14.3	1	0.4
Age						
15 to 39	646	75.9	202	23.7	3	0.4
40 and over	116	77.9	33	22.1	0	-
Schooling						
Little schooling	627	78.2	172	21.4	3	0.4
High school plus	135	68.2	63	31.8	0	-
TOTAL: For each variable	762	76.2	235	23.5	3	0.3

Of the persons questioned in Abidjan, 76.2% said they were either in total agreement (66%) or partly (10.2%) with the citizens themselves beating thieves caught in the act of stealing. Less than a quarter of the sample (23.5%) disapproved of this type of private justice. Looking at Table 19, we note that certain variables change the attitudes expressed. Although age makes little difference (75.9% of those under 40 and 77.9% of those over 40 approve of the direct participation of the public in the punishment of offenders), it is otherwise with regard to origin, sex and education. The approval of the Ivory Coast natives is more marked (80%) than that of the foreigners (72.4%); the same for the women (85.7%) in comparison with the men (73.2%) and the less educated (78.2%) as against the better educated (68.2%).

In general, three quarters of the Abidjan citizens think it a good thing to manhandle thieves and treat them roughly because they believe it teaches them a lesson and serves as an example to others. It seems, then, that, like the people in the western countries, they are convinced of the exemplary effect of punishment as a way of preventing crime. The punishment must be severe, rapid and arouse fear. An Akan proverb says "It is because of its pincers that the crab is feared". Therefore justice, too, must have "pincers", or as we would say, "teeth", if we would have people obey the law.

From this point of view, the scale of punishments decreed by Bokassa in July 1972 did not cause any great indignation in Africa - at least not as great as in Europe. This system is directly taken from Koranic law (Islam is one of the official religions of the Central African

empire) which provides extremely heavy sanctions for theft, robbery, adultery, slander and murder. In Saudi Arabia, for instance, petty theft is punished by the amputation of a hand and theft with violence by the amputation of the right hand and left foot.

These practices are in line with certain basic elements of the traditional African justice, according to which impenitent recidivists were subjected to defamatory punishments (humiliation, ridicule...), corporal punishment (floggings, beatings, torture...) and branding (a mark around the head made with a thin leather strap among the Nandi; amputation of an ear or a hand among the Islamic Peuls...). In societies where the ancestral structures based on the extended family are still maintained, crime has a social significance (both regarding responsibility, which falls on the family of the deviant, and punishment, which must be visible to all in order to reinforce the norms established by tradition and custom). In the urban centres, this direct "socialization" of justice disappeared behind the safeguard of the correctional agencies and the criminal justice system. The attitudes of the people questioned in Abidjan were very revealing both regarding the gradual reduction in the visibility of direct action by the justice system and their willingness to remedy this lack of reinforcement of values by the active participation of the persons concerned (the victims and witnesses) in the punishment of the offenders.

This desire to return to private justice outside the framework of the customary justice can be dangerous: the punishment of the guilty party can become a personal matter - a blind and savage vengeance on the part of the victims and witnesses. This can create a state of anarchy and end in the formation of "vigilantes", community police services and, in

the extreme, death squads. Whatever the case, the fact is that the citizens tend to treat thieves with brutality and would have the police do the same.

To illustrate this situation, we only have to compare the estimates given by the Abidjan sample regarding the frequency of punishment inflicted on thieves by the police with those we have just examined concerning the maltreatment of thieves caught red-handed by the citizens. The question put was similar to that which resulted in the answers given in Table 18 "According to some people, when the police arrest thieves, they beat them. Do you think this happens: never, rarely, sometimes, often, always?"

Table 20 compares the frequency with which delinquents are beaten by the public and by the police.

Table 20

Evaluation by the Abidjan population of the frequency of the maltreatment of thieves and robbers by the public and by the police
Abidjan, 1974

When a thief or robber is caught, he is beaten. This occurs:	When he is in the hands of the victims or witnesses		When he is arrested by the police	
	%* of respondents	cumulative %		cumulative %
Always	42.0	42.0	19.1	19.1
Often	30.7	72.7	23.5	42.6
Sometimes	13.0	85.7	17.8	60.4
Rarely	7.4	93.1	20.8	81.2
Never	6.0	99.1	15.9	97.1
No answer	0.9	100.0	2.9	100.0
TOTAL	100.		100.	

* The sample comprising 1,000, simply multiply the percentages by 10 in order to obtain the number of respondents for each category.

According to the sample, there is a great difference between the respective frequency with which offenders are roughly handled by the police and by the public. Whereas 72.7% of the subjects questioned believed that the witnesses and victims "beat up" the thief "often" or "always", only 42.6% thought the police did so as frequently. On the other hand, 13.4% said the public "rarely" or "never" resorts to brutality while 36.7% gave the same answer regarding the police. It seems, then, that the police are actually less brutal towards offenders than the citizens themselves, and less brutal than the latter would like them to be.

This significant difference may be due to ignorance of how the police actually act (2.9% did not reply to this against 0.9% who did not answer regarding the reaction of the crowd), the discreetness of police practices (it is usually in the police station that suspects are manhandled) and the concept of the policeman's role as protector of the citizens, including thieves liable to be the object of blind vengeance.

In Africa, the cry "thief!" is not in vain and, in many cases, the person surprised in the act of stealing can hope for nothing better than the arrival of the police - at least he would have a better chance of having his life spared:

> Thieves... arouse indignation and a common urge to retaliate. In the Treicheville market, for example, the arrest of a delinquent will start a veritable riot. Hundreds of people will run from all directions to beat the offender. In February 1971, one of these, badly wounded by his "victims", took refuge in the Triecheville police station, where he died. The police frequently find persons who have been bound hand and foot, flogged and abandoned on a street corner. They are thieves who have been dealt with by the crowd (Hassenfratz, 1974, p. 423).

The moderation of the police runs counter to the general tendency to exercise brutal and vindictive justice. Of our 1,000 respondents, 802 (80.2%) answered that it would be a good thing if the police and constables punished thieves by beating them. This type of summary justice, however, as we explained when describing the customary justice and its survival, is practiced outside the ethnic borders. We have said previously that 23.1% of the Abidjan inhabitants believed that amicable settlement was frequently used, even in the city, and 44.4% thought that disputes were still settled by conciliation in the villages. There is selectivity, then, in the types of judicial recourse, which operates in accordance with the bonds existing between the victim and the offender. Our data quantitatively proves the following statement made by Hassenfratz on the basis of his observations:

> The commission of an infraction always stirs up strong feelings among the people who are by nature very excitable, especially when the offence is considered repugnant (murder-theft). But when the delinquent is a member of the clan, when his family is known, the customary mechanisms generally come into play, and the infraction is justly compensated by the reparations set by the native judge. On the contrary, the foreigner, the vagrant and recent immigrant are without money and unknown. To simply release them is to do an injustice, for the infraction remains unpunished and the victim permanently wronged. Too bad for them, then! The anger of the population finds its only outlet in extreme violence (p. 421).

The attitude of the urban citizens, whose penal philosophy is highly punitive and based on physical punishment (a philosophy to which the governments seem to respond more and more) should be regarded as an

attempt to find substitute solutions which, in a milieu where direct control is weakened by the anonymity of the large cities, would be as effective a way of maintaining law and order as that of the traditional communities. In the large urban centres, where the heterogeneity of the populations makes the compensation of victims uncertain (the basis of the customary justice), the people believe they would be better protected by branding and intimidation (severe sentences and corporal punishment). In the present state of things, since the government agencies for the prevention and suppression of crime are far from being effective, the citizens are no doubt right in thinking that exemplary sanctions can compensate for the incompetence of the police and modern courts.

> To prove the preventive effect of punishment such as amputation, we can say that today, although more than 20,000 pilgrims go to Mecca every year on foot, there is not one case of brigandage, whereas previously it was well known that most of those who made the pilgrimage to Mecca on foot were ambushed, massacred and robbed of all the money they had in their possession. The majority of these pilgrims never returned to their countries, and those who succeeded in escaping came back to their country completely penniless (El Augi, 1975; pp. 229-230).

At one time, the "regard of others", ever important within the clans, among kinfolk and in the villages, and the threat of ostracism for impenitent deviants checked any temptation to break the law. In the wake of the country's development, which gave rise to the rural exodus, urbanization and the mingling - or at least the cohabitation - of ethnic groups, it is natural for the citizens to want more stringent measures than imprisonment, which, in Africa, has not enough visible effect, perhaps, to actually discourage criminals.

Public attitudes to crime

The study of the public's attitude towards crime and the criminal justice system cannot be dissociated from its attitude vis-à-vis crime policy. The latter can be defined, lato sensu, as being the sum of all the measures taken by a society to fight crime. The object of these measures is essentially to prevent and control criminality by methods ultimately aimed at keeping the peace. With regard to crime policy, government action is exercised at three levels: the legislative level, where forbidden conduct is defined; the executive level, where the resources for seeing that the laws are obeyed are put into operation, that is, the technical means at the disposal of those charged with the administration of justice; and the judicial level, where the system in force is carried out through restrictive measures (Ancel, 1975). In the end, it is the government authority that determines what acts will be considered criminal (criminalization/de-criminalization), that establishes a complex of agencies to assure against any infringement of the criminal code (prevention, detection and investigation agencies) and sets up the mechanisms necessary to neutralize delinquents (agencies for prosecution, execution of the sentence and treatment).

There is a triple interdependence between criminality, crime policy and the attitudes of the population, as illustrated in Figure 2. This graph shows the penal system's lack of adaptation to the African socio-cultural context. Most of the States, in adopting criminal codes copied from those in use in the West, and in closely adhering to the criminal justice systems of developed countries, have created a wide gap between their "avant-guard" and "civilizing" objectives and the expectations of the people.

Figure 2

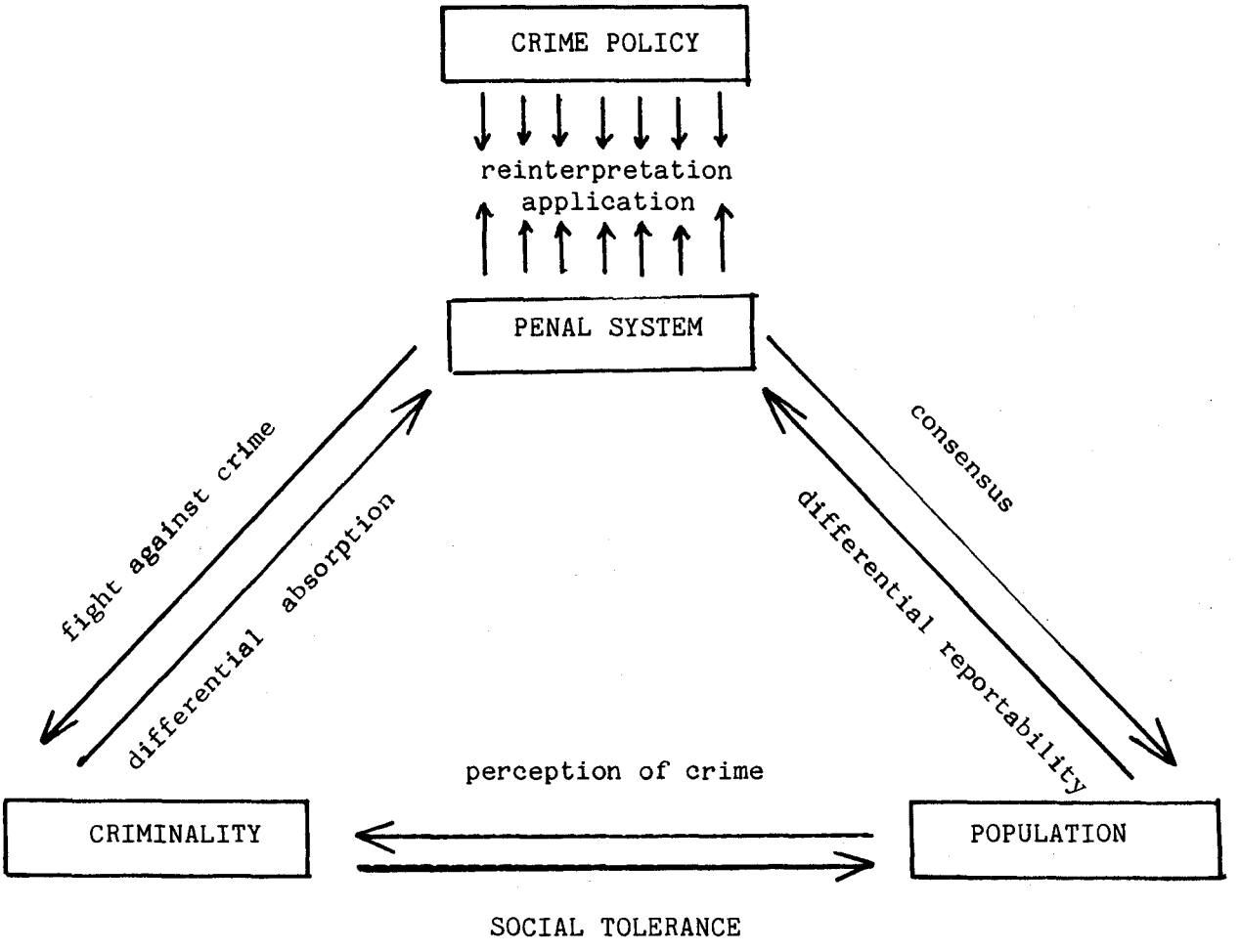

Fig. 2. Interdependence between crime, crime policy and the attitudes of the population.

First of all, there is a difference between what the legislators define as a crime and what the people themselves consider a criminal act. Having discussed this before, there is no need to go over it again, except to point out that regarding the number of criminal cases the people decide to refer to the police or the courts, it will be their perception of crime, not that of the legislator, which will serve to filter the infractions reported. In Nigeria, for example, the law forbids a second marriage when the first was performed according to modern law; this is known as monogamy de jure. The violation of this law is sanctioned much more severely than remarriage following a first union contracted according to customary law, which is polygamy, de jure. Thus Whyte (1974) notes that in spite of the penalties provided, violations of the modern law continue to increase and the authorities hesitate to prosecute their authors. As he says, "This is an unmistakable illustration of societal attitudes operating against the imposed morality of the Criminal Code. Whereas the Criminal Code is in this respect trying to operate as a civilizing instrument, the society on its part unequivocally, by its conduct, rejects the efforts" (p. 15). The author also shows that adultery and premarital relations were defined as infractions in Nigeria in order to mollify the Mohammedans. He says that only one such case has been reported as having been prosecuted. His judgment of the crime policies in Nigeria is most severe: "The Criminal Code has demonstrated most convincingly its disregard for the cultural values..." (p. 14).

Due to this disparity between the cultural values and juridic norms, a large proportion of infractions and crimes never reach the police

and judicial courts, simply because the citizens dispute the legitimacy of certain laws or know nothing about them. Whyte, in his paper, also points out the role of the penal agencies as mechanisms for the reinterpretation of the laws and crime policies - a reinterpretation that will bring them as close as possible to the needs and aspirations of the people. It is the duty of those who interpret the codes, he says, to give their provisions weight by adapting them to ethnic particularities... (p. 27). Judges and politicians are thus on the horns of a dilemma, for their function is to enforce the laws in order to combat crime, and they can only do so with the help of the public.

The greater the divergence between officially defined criminality and that considered so by the people, the more tenuous the general consensus will be with regard to the crime policy and the functioning of the criminal justice system. This results in a differential reporting of infractions which, as we have shown, is related not only to the proximity of the agencies (people more often go to the police and the courts when they are close at hand) but also to their role as decision-making courts (above all where the social mosaic - in the cities and immigration points - prevents the people there from resorting to the customary methods of arbitration and conciliation) as well as to the degree of acculturation (the more the cultural distance of a group increases in relation to the values and norms proposed by the elite, the more ignorant it becomes of the laws and the more it will cling to its customary rules).

Where the criminal justice system is concerned, the adoption of new laws creates a chain reaction, for the police, the constables and

judges find themselves obliged to have the laws obeyed without alienating the population. For example, in the Ivory Coast, the Act of August 5, 1974, obliging judges to hand down sentences of five and ten years for petty thefts, and ten years or more for compound robbery (committed at night, in a home or with a weapon) forced the agents of the criminal justice system to perform all kinds of stunts in order to mitigate the excessive character of the law, particularly in the rural areas and when the litigants were related or belonged to the same tribe or ethnic group.

As we said, in the countryside, and to a lesser degree in the cities, it often happens that people appeal to the court when the parties involved were unable to agree on a satisfactory arrangement when their case was brought before the Council of Elders or the Chief of the clan. They then go to the modern court as to a court of appeal, and what they are seeking, first and foremost, is that peace be restored between them through the compensation of the injured party. In such cases, a heavy prison sentence tends, first, to increase the animosity between the two families, secondly, to trigger acts of vengeance and finally, to make the villagers even more stubbornly opposed to the modern justice. The evidence of three bush judges in the Ivory Coast shows their concern regarding the need to adapt the crime policies to the characteristics of the milieu:

> The Act of August is creating many problems for judges. When the case is not very serious, we try to arrive at an amicable settlement.[1] The law requiring five and ten

1. Judge B.A., branch of a bush court, Ivory Coast, 1975.

years was made for foreigners. The proliferation of robbers that was occurring created a state of panic. Crime was increasing, particularly armed robbery. Starting in the cities, it was spreading to the interior. In Tiassalé, there was an armed robbery in a sawmill, carried out with the aid of a stolen car. The same day, a taxi driver was attacked at Dimbokro. Something had to be done. Severe laws that are meant for dangerous brigands, however, punish petty thieves. For the theft of a package of cigarettes, a loincloth, etc., the penalty is five years, whether we like it or not. The minute there is any doubt, we release... When the case is still in the hands of the constabulary, we can tell the families to settle the matter between themselves. We then close the file without any followup.[1]

The Act of August obliges us to give penalties of five years for harmless thefts and ten years if there are aggravating circumstances: for example, the theft at night of a bit of sugar. As judge, we therefore tend to dismiss the case or declare it groundless. But every time we shelve a case, the prosecutor can ask us the reasons. For my part, I dismiss cases of petty theft. For the rest, I am obliged to convict, but it pains me to give such heavy sentences. The people now know that theft is punished by at least five years. Thus parents or the persons concerned look for an amicable settlement. What they want is compensation. However, this can lead to blackmail. I learned of a case in a village in Divo. A young man broke into a store one night. The owner demanded 100,000 francs C.F.A. from the parents. When the parents protested, the proprietor told them that if they did not want to pay he would take them to court and that their son would be imprisoned for ten years. The parents, therefore, payed the 100,000 francs.[2]

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1. Judge M.D., branch of a bush court, Ivory Coast, 1975.

2. Evidence of H.N., Bush judge, Ivory Coast, 1975.

These statements show that there is a difference between the public reaction in the cities and that in the villages. If, in the large urban centres, the people want immediate retaliation and there is pressure put on the deputies to obtain the enactment of repressive laws, it is because, as the bush judges say, these laws are aimed at foreigners (who are held responsible for a large portion of the crimes). In the rural areas, the situation is quite different since the people live much more according to the ancestral models of community organization. The "city" laws give rise to problems and, as shown in the tremendous difference in the rates of criminality, can cause the villagers to distrust the police, constables and judges all the more.

The intervention or non-intervention of the agents of the criminal justice system forms a second filter in addition to that which the people exercise through differential reporting. This second filter can be defined as the "differential absorption" of the mechanisms for combatting crime. This differential absorption is conditioned as much by the attitudes of the population and agents of the system towards crime and the official regulations as by the potential or capacity of the institutions themselves to handle the offenders. We studied this problem by analyzing the low rate of juvenile delinquency in Africa, and found that it is directly connected with the lack of personnel, juvenile courts and rehabilitation centres. This is also the case for adult criminality. The apparent reduction in urban crime in the Ivory Coast coincides with the deterioration of the police/citizen ratio and the poor functioning of the justice system. Referring to the crime statistics (Table 4) we see that

between 1966 and 1972, in spite of a considerable increase in population, the courts registered a stable number of complaints (22,373 in 1966, and 22,869 in 1972). Obviously, this shows a saturation point and the impossibility of handling a greater volume of criminal cases.

This physical limitation, due to a dearth of magistrates, courts and institutional resources, necessitates a selection at all levels of the cases to be prosecuted. The result of this state of affairs is the "differential absorption" of the criminal justice system, and paradoxically, makes it possible for the unofficial methods of arbitration to find a new vocation in the cities and continue to exist in the countryside. As we have stressed a number of times, this should make researchers extremely careful when they are studying reported crime, for the known crimes create a false picture of the actual criminality, the latter having been filtered down by both differential reporting and absorption.

The evolution of criminality as seen by the Abidjan population

On the African continent, very few surveys have been conducted to date on the views and attitudes of the people with regard to crime or their position vis-à-vis the modern administration of justice - an essential factor because of its impact on the activities of the criminal justice system. The data obtained in Abidjan cannot be used for comparison with other African cities, except for a few points we will raise here and there, because there is no other survey available, at least none of the same scope as the one undertaken in the Ivory Coast capital. Considering the preceding remarks, it would be of little value to try to assess the

attitudes of the citizens toward justice without at the same time taking into account their views on the evolution and volume of crime.

According to the statistics of the Ivory Coast, close to one out of every three infractions is committed in the jurisdiction of Abidjan. Furthermore, as is the case for all the urban regions of this country, the crime rate is reducing: in 1966, it was 1,331 per 100,000 inhabitants, and in 1972, 834. During this period, the number of complaints lodged with the police and the court remained static: 7,115 in 1966 and 7,266 in 1972, while the population increased from 534,604 to 871,370 inhabitants. Abidjan, then, offers all the advantages of a city undergoing tremendous expansion, with an annual rate of increase of 11.5% according to the most recent studies of the Department of Planning (1974), and is a centre of attraction for villagers and immigrants. About 8% of the rate of increase is due to immigration. It is also a cosmopolitan metropolis; half the residents are from foreign African countries and the census shows 160 ethnic groups.

Abidjan has all the characteristics of urban overcrowding, its citizens an indiscriminate mixture of diverse ethnic lineage. It is a melting pot where modern culture and traditional culture exist side by side, intermingling or confronting one another. A substantial increase in crime, then, can be expected. For the reasons described above, however, the statistics prove the contrary, due in large part to the structural and functional stagnation of the police forces and judicial agencies. As for the "actual" crime, it is impossible to measure its volume since a

proportion - hard to assess - remains hidden. One way of bringing this dark area to light is to ask the people what they think about the increase or decrease in crime. A second way, which we shall discuss later on, is to measure the degree of victimization among the citizens.

The first step was to ask two questions regarding how the Abidjan citizens perceived the evolution of crime. One concerned the increase in the number of criminals throughout the entire country; the other the increase in the number of crimes in the respondents' neighbourhood. The questions were worded as follows: a) "In every country, there are persons who commit acts that are against the laws or customs. Is it your impression that in the Ivory Coast, in the last two years, the number of criminals has diminished, remained the same, slightly increased, greatly increased?" b) "Is it your impression that since you have lived in this neighbourhood, the number of thefts and crimes has diminished, remained the same, slightly increased, greatly increased?"

The answers to the two questions are presented in Table 21. Since there is no exact homology in the respective formulations of the questions, the one concerning the variations, over two years, in the number of robbers, the other the fluctuations in the volume of thefts and crimes, no precise comparison can be established, although the two questions are similar in essence. Instead, we shall draw a parallel between the general trends shown in the answers.

Regarding the crime situation for the entire Ivory Coast, we find that 69.2% of the sample thought there had been an increase in the number

of delinquents. This increase is very marked according to more than half of the respondents (54.8%) and very slight for 14.4%. However, 7.6% saw no change whereas 21.6% believed there were fewer delinquents in the past two years. These impressions show that, if we confine ourselves to the idea of growth, crime is of less concern to the citizens of Abidjan than to the inhabitants of certain more developed countries. According to the Gallup polls, for example, 85% of Canadians believed that crime was on the increase in 1974, against 63% two years earlier (see Fattah, 1975). In the United States, the data furnished by Harris, in 1969, showed that 90% of the persons questioned in Baltimore had the impression that crime had increased in the country since the previous year (Furstenberg Jr., 1971).

Table 21

The perception, by a representative sample, of the evolution of the number of delinquents in the Ivory Coast and of the number of infractions in various Abidjan neighbourhoods. August 1974. Sample of 1,000 Abidjan citizens

Estimation of the evolution of crime	The number of delinquents in the Ivory Coast	The number of infractions in my neighbourhood
	% of respondents	% of respondents
Greatly increased	54.8	38.2
Slightly increased	14.4	10.5
Remained the same	7.6	13.2
Diminished	21.6	34.3
No answer	1.6	3.8
TOTAL	100	100

* Since there were 1,000 respondents, the whole figures are % X 10.

When asked to explain their evaluation of the rise in the number of criminals, 30% of the Abidjan residents referred to the greater visible evidence of delinquent behaviour: "because we see more and more criminals", "they are mentioned in the newspapers", "bodies are found everywhere"; others (13%) base their statement on a greater feeling of insecurity: "robbers are armed nowadays", "they are no longer afraid of the law", "we should have more protection", "we no longer feel safe", "we are afraid of being attacked, of being robbed"; still others (22%) cite etiological factors: "there are not enough jobs for everyone", "there are too many young people left to themselves", "people are living beyond their means", "many people refuse to work", "there are too many foreigners", "a great many people haven't enough to live on", "the youth are becoming emancipated", "films showing violence excite children and adolescents"; finally, 4% mentioned the ineffectiveness of the police or the too great leniency of the courts. Those who saw a reduction in the number of delinquents attributed it to the simple observation that there were fewer robbers (8%), to better control by the police and constabulary (9%) and to preventive measures (1%): "because the streets are now lit", "because the shantytowns have been demolished". The rest could not justify their "impression".

In many surveys, a people's evaluation of the evolution of crime was seen as a manifestation of their concern about the crime situation. On the one hand, it was assumed that when the citizens felt that the number of delinquent acts was increasing, this was an indication of their anxiety, and on the other hand, this led to the deduction that this indication could at the same time show the extent of the people's fear of

crime, and - why not - their fear of victimization. Also, as Fattah (1975) pointed out, the two ideas of fear of victimization and concern vis-à-vis crime were wrongly used, in the past, as being interchangeable. There is nothing to prevent arriving at this conclusion, except an exact knowledge of the meaning and significance of the answers given by the citizens. We must at least understand what they mean by "increase" or "reduction" in the number of delinquents or infractions and know whether they are referring to whole numbers or rates of crime.

The questions we asked, and which are similar to those used in many surveys, do not elicit any specific answers that could enable us to determine whether the subjects were speaking in absolute terms (for example, there are more robbers because there are more foreigners, more young people, a greater density of population...) or in relative terms (proportionately, the number of criminals or infractions keep increasing...). Thus we are jusitified in drawing only very limited conclusions, restricted to simply indicating the degree of concern (and not necessarily anxiety) which the perception of a growing volume of crime engenders in the people.

In the case of Abidjan, the reasons given by those who find that there are more criminals in the Ivory Coast show the complexity of the elements underlying this evaluation: social change, the breakdown of family structures, more violent and aggressive deviant behaviour which, for certain individuals, creates anxiety and a feeling of greater vulnerability. In addition, as Figure 2 shows, the attitudes towards the criminal justice system as well as towards criminality must be taken into account.

At the neighbourhood level, that is, the immediate environment where the people carry on their daily lives, only 48% of the citizens of Abidjan think that the number of thefts and other crimes have increased a great deal (38.2%) or a little (10.5%), whereas 13.2% are of the opinion that it has remained the same and about a third (34.3%) maintain that it has diminished. Furstenberg Jr., whom we cited earlier, in analyzing the data presented by Harris, in Baltimore, states that although in 1969, 90% of the people were of the impression that crime had increased in the United States, 80% were of the opinion that it had become intensified in their own city and only 39% that it had risen in their own neighbourhood. He concluded that it was easy to see by this that the individual could perceive crime as a danger to society without ever feeling personally threatened. We could come to the same conclusion, making the necessary reservations for the difference in the formulations of the question, since 69.2% of the Abidjan citizens claimed that the number of delinquents had increased in the Ivory Coast whereas a lesser number, 48.7% said that the number of thefts and other crimes had increased in their neighbourhood.

However, the reasoning of both Furstenberg (1971) and Fattah (1975), who say there is a difference in intensity between fear of victimization and concern about crime, is slightly invalidated to the degree where they tend to assert that the level of concern (or better still, "preoccupation") with criminality is generally stronger than the fear of becoming a victim. Furstenberg shows that the fear of victimization usually refers to a person's idea of his own risk of becoming the victim of a crime, whereas concern about crime relates to his evaluation of the state

of crime in his country. This recognition of a distinction between the two ideas does not necessarily mean - as it implies - that the level of concern about the increase in crime always rests on the fear of being a victim. At least this is what emerges in the survey conducted in Abidjan.

In effect, despite the fact that a smaller percentage of the population (48.7%) believes that the number of thefts and crimes has grown in their nieghbourhood in comparison with the percentage (69.7%) who say that there are more delinquents in the Ivory Coast in 1974 than in 1972, the proportion of persons who fear being victims of an attack in their neighbourhood is 78.2%. We therefore assume that the fear of being a victim can be extremely high without being related by the majority of persons concerned to an increase in crime.

This leads us to complete Furstenberg's hypothesis by introducing some slight changes. If the individual can perceive crime as a danger to society without ever feeling personally threatened, it is just as possible that he perceive crime as more of a threat to him, individually, than to society in general. This may be due to the strong probability of victimization in the African cities and a feeling of insecurity caused by the small police force on hand to maintain order. Of the persons interviewed in Abidjan, 54.5% admitted that they felt they were only slightly protected (33.4%) or not at all (21.1%) by the police.

In Africa, it is quite possible, too, that specific cultural factors have a bearing on the fear of victimization, apart from the city

people's feelings about the increase or reduction in the volume of criminal acts. Even though, in Abidjan, 47.5% of the sample were of the opinion that the number of infractions had diminished or stayed the same, it is possible that Africans, finding themselves in an urban milieu, fear that they may be victims of criminal attack. This is because, in the city, the constant protection that was so effectively exercised in the traditional communities is weakened by the concentration of heterogeneous populations. This may explain why the respondents, even if they see no increase in the number of crimes, feel they will eventually be the targets of criminal attack in a milieu they consider victim prone. It is no contradiction, then, that the proportion of the population that fears victimization is higher than that of citizens who believe that crime is increasing. This situation can obviously be assessed only by attempting to evaluate the degree of victimization of the population.

In the United States, according to the questions asked in all the surveys, the fear of going out at night seems to be greater than the fear of victimization, in Abidjan, on the contrary, there are far fewer persons who say that, in their neighbourhood, the residents are afraid to go out at night (55.8%) than there are who admit a fear of being the victims of thugs (78.2%). These attitudes could indicate that thefts and assaults occur during the day when the men and women are at work. At night, when all the members of the family are at home, the neighbourhood assumes once again its "village" aspect, for most of the people in the area know one another and often belong to the same ethnic group. Self-protection is strengthened by social cohesion. The delinquent who would venture an

entry takes the risk of not coming out alive. The Alladian neighbourhood of Port-Bouet, in Abidjan, is called "the forbidden area" by thieves. They know that if they are caught, they will be drowned in the lagune, without any form of trial.[1]

Analysis of victimization among a sample of the Abidjan population

The methodical study of victimization among the population is very recent in criminology, the first surveys having been made in the United States in 1967, during the Presidential Commission headed by Katzenbach. Their object was to evaluate more precisely the amount of actual crime and discover the variables which accounted for the considerable number of infractions that were never reported to the police or the courts. It seemed possible, in this way, to measure the accuracy of the crime profile drawn by the police statistics. It was hoped to determine the extent of the "black number", that is, of the hidden criminality. To arrive at this objective, the simplest procedure is to question people about the crimes of which they were victims and what their reaction was, in order to verify to what extent, and under what circumstances, the victims thought it best to call upon the criminal justice system. This was the procedure used in Abidjan.

Of 1,000 persons, 293 declared that between August 1973 and May 1974 they themselves, or someone under their roof, had been robbed or were the victims of thugs. Over a period of nine months, 30% of the homes in Abidjan had been the direct targets of crimes or infractions. Similar

1. Evidence given by M.E., Professor at the Abidjan University, Ivory Coast, 1974.

results were obtained in 1968 in a study made in Kampala, Uganda: a sample of 534 men, living in two poor neighbourhoods in the capital, were asked if they had been robbed within the last year. Almost a third (30%) answered affirmatively: they had been the victims of crimes against property within the space of a year. Clinard and Abbott (1973) comment that with "such a high volume of property loss, the defense of one's belongings undoubtedly reaches the level of a constant preoccupation" (p. 20).

However, the data gathered by the two studies carried out in the African cities are similar to those obtained in the United States. While the American "national" investigation shows that in 1966 one home in five was the victim of a serious crime, the survey done in Washington the same year shows that of 511 families, 38% of the people questioned had been the victim of a serious crime during the year (Hood and Sparks, 1970). These various studies prove that victimization is higher in large urban centres than in small localities and rural areas. It seems as though the rate in African cities must be as high as that in the American cities.

It is this last finding that is particularly disturbing and explains the fact that in Abidjan, 78.2% of the respondents fear victimization against about 40% in the United States, according to the Gallup polls, and against 66% in England, according to a study undertaken there (Durant, Thomas and Willcock, 1972). In spite of the relatively low national crime rates in Africa, the urban rates of victimization tend to be identical with those of the cities in the most highly developed states: in one year, in Washington, 1 home in 2.6 had been the victim of an infraction compared with 1 in 3 in Abidjan and Kampala.

We have already found certain elements that explain this situation in the Ivory Coast: the concentration of crime in the urban areas where the penal agencies are centred (the police, courts); the reduction, in relation to the population, of the number of complaints recorded by the police and judges (following the relative decrease in the number per inhabitant and the congestion of the courts); the intermingling of numerous ethnic groups, resulting in the unsettling of values; the existence of a greater range of inducements to crime caused by the copious display of consumer goods, the poverty of the immigrants and the protective anonymity of the large city. The effect is an ascending curve of infractions committed and a criminal justice system less and less capable of absorbing them. This reaffirms the fact, as all African criminologists agree, that the hidden crime in Africa is no doubt greater than anywhere else.

To better understand the high degree of fear of victimization among the Abidjanese, it is essential to keep in mind the frequency of the attacks against them. Of the 293 homes which, on their owners' admission, were the victims of infractions within the space of nine months, 167 (56.9%) were broken into once, 72 (24.6%) twice, 37 (12.6%) three times and 17 (5.8%) four times and more. In all, 501 crimes had been committed against the persons interrogated or their families. In 92% of the cases, it was a matter of theft, and often enough, the theft of valuables, considering the low incomes of the population.

Counting the husband or wife of the respondents, the children, relatives and other persons living with them, the homes contained a total

Table 22

Infractions committed between August 1973 and May 1974 against 293 homes of a sample of 1,000 in Abidjan

Infractions	Number
Attempted theft	59
Burglary	14
Theft of clothes and merchandise	211
Theft of money and jewelry	51
Theft of transistors	68
Theft of television sets	9
Theft of dishes, furniture	17
Theft of sewing machines	14
Theft of car parts	11
Theft of bicycles and motor scooters	3
Fraud	15
Breach of trust	9
Assault and battery	11
Attack by ambush	2
Attempted rape	1
Theft followed by the assassination of the thief by the victim	1
Theft with violence	2
TOTAL	501

of 5,477 persons, or about 5.5. per family. Taking only the infractions of which they were victims (the 501 listed in Table 22), the crime rate amounts to 9,147 per 100,000 inhabitants, merely for the period of nine months from August 1973 to May 1974.

According to the information obtained by Jacobs (1974) from the police stations in Abidjan, in 1973 the police had registered 23,642 complaints for a total population estimated at 811,000 inhabitants by the Department of Planning (1974). If we deduct the 7,073 cases concerning

automobile accidents, there remain 16,569 complaints of a criminal nature. This gives us a rate of 2,043 cases of known crime per 100,000 inhabitants, a rate four and a half times lower than that of our sample. Moreover, between the action taken by the police and the court, the rate of recorded crime is reduced (through lack of proof, withdrawal of the charge, amicable settlement between the parties, inability to find the guilty parties) by more than half (this rate, in 1972, was only 834 for the jurisdiction of Abidjan, which handled only 7,266 complaints.

The gap between the actual criminality (the volume of crimes committed), the visible criminality (known to the police) and the recorded criminality (referred to the courts) seems to be an inescapable phenomenon in all the countries, and one that is becoming greater in each of them to a more or less marked degree. Between the commission of the crime, the identification of its authors, their arrest and appearance before a court, and until some measure has finally been taken concerning them, there are a number of stages at which decisions are made, each capable of avoiding the prosecution of these individuals. In this way, the total volume of recorded crime is reduced little by little at each stage, beginning with the police and ending with the courts.

The American national survey of 1966 shows a sharp gap between the number of crimes of which the respondents were victims and those where proceedings were instituted. Thus, of 2,077 infractions, 1,024 (49%) were reported to the police and of these, only 787 (38%) were judged an infraction by the police (Hood and Sparks, 1970). In Abidjan, 42% of the victims did not lodge a complaint; this means that, for the sample, the rate

of reported crime is reduced to 3,834 per 100,000 inhabitants compared with a rate of victimization of 9,147. This is much closer to the rate of complaints actually recorded by the police, which in 1973 was 2,043 per 100,000 inhabitants, although the margin between the two is still a substantial 47%.

This means that of 100 cases of attempts against persons and property committed in Abidjan, 22 are recorded by the police, 9 reach the courts and 6 end in conviction. This rough estimate of the loss of victimization cases throughout the various stages of the criminal process approximates the data calculated by Ennis (1967) for the American national survey. In effect, it finally appears that of 100 acts of victimization, 49 were reported to the police, 29 were recorded by them, six ended in arrest and about 3 reached the American courts.

It will always be impossible to measure the difference in the number of crimes committed and those reported and it would be foolhardy to try to ascertain, even approximately, the volume of this black number. The percentages of loss that we have presented, as an indication, have no value other than to illustrate, first, the complexity of the mechanisms for referring criminal cases to the justice system and, secondly, their selection as they go through the various stages of the official process of social control. The agencies of the criminal justice system themselves provide few cases. It is the population which, by its reactions, confirms the legal norms, and which, in the end, determines the laws and where, when and how they will be enforced. As for the whole institutional structure, its functioning is conditioned both by the attitudes of the public,

its supplier, and by its own ability to handle the volume of complaints or delinquents referred to it.

Attitudes of the African public towards the agents and agencies of the modern criminal justice system

In the area of criminal justice, it is not the recourse to conciliation and arbitration that distinguishes the African states from the western nations. In every country, the citizens do the same, whenever possible. It often happens, for instance, when the delinquent is a relative or the son of a friend, or when the infraction is committed in the neighbourhood where the author and victim belong to a group whose members have friendly relations, the party concerned has no desire to compromise the relationship by initiating legal proceedings. The difference is that, in Africa, this "private" type of justice can extend to the most serious crimes (such as murder) whereas in modern societies it is limited to certain categories of minor offences, such as children's acts of vandalism (broken windows, punctured tires, cars stolen for a joyride, or petty thefts).

A second difference is that in Africa, amicable settlements, because of their cultural roots, are still perceived as "institutionalized" and "legitimate", for they respond to the aspirations and traditional values of a large proportion of the population. All Africans are part of a network of relationships, often very complex and extensive, that are derived from ties of kinship or ethnic origin much more far-reaching than those of nuclear families, and also much more constraining, for they are based on a concrete solidarity which demands loyalty towards the members of the extended family, the clan, the village or ethnic group.

From this point of view, the modern system of criminal justice is sometimes considered indispensable as the only resource for solving a litigious problem, precisely because there are no ties that bind the persons in conflict, and sometimes as an alternative when the customary procedures prove incapable of giving satisfaction to the parties involved. This plurality of laws, customs and courts for settling disputes gives the people an opportunity of calling upon either the traditional law or the state law. Although most Africans are faced with two systems of justice, it does not necessarily follow that they consider the two processes of social control incompatible or irreconcilable. They see them as being complementary and call upon them in those terms.

It goes without saying that this complementarity exists to a greater or lesser degree depending on the geographic and cultural milieu. The distance between the villages and urban centres, which places the former far from the police stations, constabulary detachments and courts, and the isolation that fosters ethnocentrism in some communities are factors that limit the reporting of criminal behaviour to the agencies of criminal justice. Then, too, the people's view of these agencies and their penal philosophy influences their decision as to whether they will resort to them or not.

The low rate of criminality recorded in the more "primitive" and less "policed" regions, to use the description of certain African members of the elite, is proof of the impotency of the new system of criminal justice (in the North of the Ivory Coast, for example, only 186 infractions are registered per 100,000 inhabitants). The rural people are afraid of

constables and judges because their intervention, which frequently ends in the arrest of the guilty party and his being sentenced to prison (which, for the community, is equivalent to the very severe punishment of banishment), is of a kind that only accentuates the antagonism between families and exacerbates their quarrels.

There is therefore a strong resistance against their intrusion in "family affairs", all the more so in that these African bureaucrats representing the law are considered in league with the "whites" because they challenge the traditional norms, are looked upon as foreigners - which they frequently are, since in order to avoid corruption, the police, constables and judges sent to a region are not members of the ethnic groups living in the judicial district, - and finally as neo-colonialists who want to force them to become "civilized".

As the level of schooling among the villagers is increased and as the distances between the important villages and the main cities becomes less and less, the resistance grows weaker. Where the young people have access to a school, and where the police and constables can assure their presence on a more permanent basis by doing regular rounds of the villages, the ancestral political structures, founded on gerontocracy, are much more threatened, and because they are watched and challenged, find themselves in a delicate, and sometimes even a precarious position.

The several criminological studies on the attitudes, in Africa, towards modern justice are exclusively focussed on the urban populations. This approach is obviously the one easiest to carry out. In addition,

being limited to groups that have a better knowledge of the organizations of the official justice and to a milieu where the workings of the police and judicial apparatus are most apparent and operational, it offers the advantage of discovering some of the motivations behind the choice of the court to which a criminal case will be referred. Now to proceed with this survey of the public attitudes toward the agencies of criminal justice, it seems logical to go from the particular to the general, beginning with what is most apparent to the people and finally dealing with what, in their eyes, is hazy and imprecise. Thus our analysis will be centred on the feelings of the population vis-à-vis (a) the police and (b) the courts and correctional policy, each in turn.

The attitudes of Africans towards the police

At Lusaka, in Zambia, the persons interviewed by the team working with Clifford (1964) showed very favourable attitudes towards the police. In almost all cases, policemen were considered the protectors of the poor and the innocent. Many were the respondents who expressed admiration for the work they were doing and who thought that a larger number of police would contribute even more to keeping the peace. On the other hand, some who were critical of the members of the police forces, deplored their low level of education, their lack of qualifications and good manners. Others thought that, in accomplishing their tasks, they showed no human feeling and abused their authority. However, everyone was of the opinion that the police had a difficult job to do and that, all things considered, their work was satisfactory.

A study done in Nigeria, by Okonkwo (1966), tends to show that the relations between the police and the public are far from being cordial and that with time they are deterioriating because of the changed conduct of the policemen. The main grievances the citizens had against the police were:

- exaggeration of the evidence presented by the police before the courts;
- the unnecessary use of violence;
- going to extremes during public demonstrations;
- unwarranted delays in responding to complaints;
- a lack of courtesy when controlling traffic, when making an arrest and recording the evidence.

In Uganda, too, a negative view of the police forces is evidenced by Kikuba (1972). After having made a survey of 102 juvenile delinquents in Kampala, the author concludes that the police command little respect on the part of the minors apprehended or on the part of their families:

> "The offender saw the police as representing an oppressive, corrupt and inhuman aspect of society. They particularly singled out the police cruelty towards suspects and police intimidation to coerce the suspect to make confessions" (Kikuba, in Clinard & Abbott, 1973; p. 220).

To tell the truth, Kikuba's example is tendentious for it can hardly be expected that young criminals and their parents would have a positive image of those whose duty it is to track down offenders and make sure they do no further harm. We have only to refer to the beginning of

this chapter describing the extremely punitive philosophy of the African peoples and governments to realize that the author's point of view is misleading. The police forces respond to the expectations of the citizens. It is therefore certain that delinquents and their families consider the police to be brutes because they make it impossible for them to avoid the official system, of which they believe they are the victims, and settle the matter amicably.

Kikuba's argument makes this perfectly clear when he states that the police in Africa are not as respected as elsewhere because they use methods different from those of the Elders. The latter conduct their investigations in the villages in a polite and friendly way, without resorting to rudeness and violence. This is a perfect illustration of the difference between the anonymity of mass justice and that which operates in a community where everyone knows and is dependent on one another. To be fair, one must go to the population in general for their view of the police, not to criminals who have been reported by their victims or by witnesses.

This is what Clinard and Abbott (1973) wisely did in the same town of Kampala. And the results surprised them, for in their research on the relationship between the people and the police they say they "turned up somewhat unexpected results". Unexpected because of 528 persons, 50% answered that they "respected" policemen, 35% that they were "uncertain" and only 14% that they "hated" them. When asked to explain why, the majority mentioned the protective role of the police. And the authors conclude:

> "Although the people are dubious about the crime-detecting skills of law enforcement officers, they recognize their role as the formal barrier between themselves and the numerous forms of personal violence that threaten their lives (p. 222).

In Abidjan, although 54.5% of the sample felt they were ill-protected or not at all protected by the police forces in their neighbourhood, 65% were satisfied with the way the police or constables behaved toward the public. Almost all the opinion polls in the world concerning police/citizen relationships show very high rates of satisfaction with the police on the part of the people, as well as respect for them (Baril et al., 1976). American surveys (Shaw and Williamson, 1972: Crawford, 1973) show that from 60% to 80% of citizens, in cities and neighbourhoods, respect the police; in England, the percentage is even higher - 83%, according to the Royal Commission (1962).

The Africans seem to follow the same general trend in this regard, the majority saying they are satisfied with the police. At Kampala, the relatively moderate esteem accorded the policemen (50% of the people say they "like" them) is probably due to the formulation of the question, which may have elicited some reservations, for the sample was asked whether the people in their neighbourhood liked or disliked the representatives of law and order. This evoked more reticence than the questions relating to satisfaction with the work of the police and the respect it inspired.

The attitudes towards the police are not unqualified. The people make a difference between the tasks they are given, their ability to fulfill them, their effectiveness and their impact on social life. A national survey conducted among the French population (Faugeron and Robert,

1975) shows the cleavage that exists between satisfaction with the policemen's work and the feeling of security they engender in the population. 68% of the French say one should not complain about the police, for they are only doing their duty, but on the other hand, many more, 81.1%, feel protected, just the same, by the presence of the police.

The feeling of security does not necessarily mean approval of the methods used by the police corps to assure this protection. Here the French seemed to show some reservation; the percentage of positive assessments of the work of the police was lower (68%) than the degree of security felt (with which 80.1% of the respondents were satisfied), because the police force protecting them was too authoritarian. According to 68.5% of the persons questioned, the policemen often abuse their authority.

In Abidjan, the opposite is true. 42.4% of the inhabitants said they were well protected (27.5%) or very well protected (14.9%) by the police and constables, whereas, despite this small percentage that feels protected, 65% considered the behaviour of the peace officers satisfactory. This is a fair appraisal, for the police stations in Abidjan do not have a large staff - 25 to 40 policemen - and have only one cruise car each (Jacobs, 1974). Patrols must be made on foot in thickly populated neighbourhoods. There is no question, then, of a dissuasive and preventive "presence", and the population is aware of this, just as they know that with the "means" on hand, they cannot expect such surveillance to be very effective. Of the sample, 23.6% declared that the police and constabulary were very effective in preventing delinquents from committing offences, and 57.8%, being more realistic, said that they did their best.

On the whole, the people's image of the police seems to be fairly positive. If we measure their good qualities against the highest frequency (often and always) attributed them by the Abidjan citizens (excluding the other ends of the scale, never, rarely or sometimes), their profile presents the following traits: most of the time they are competent in their work (53.3% of the interviewees), ready to render service (49.1%) polite (46.1%), polite and kind (44.4%) and honest 40.9%). As for the faults found in policemen and constables often and always, they are corruption (for 36.1% of the persons questioned), abuse of authority for 34.9%), indifference (for 29.6%) and brutality (for 23.7%).

The Africans in Abidjan, where city life forces a multitude of ethnic groups to live side by side, are aware of the role the police play as arbiters, but at the same time, they have no illusions about their effectiveness. 54.8% of the sample are of the opinion that it is no use lodging a complaint when the offender is unknown, because the police make no effort to try to find and arrest him. There is some skepticism, then, that is based on the performance of the police forces. In spite of this, the rather positive image that the population has suggests that, in the tasks it attributes to the police, they come up to its expectations.

Compared with the attitude in France, where 68.5% of the population accuses the police of abuse of power, in Abidjan only half this number (34.9%) claim that the police and constables use their authority to excess. The people of Abidjan's impression of police officers is less Kafkaesque, then, and the picture they portray of their agents seems to show that they have a good relationship with them. Unfortunately, the

basic elements of these relations have not been explored during this study. We can only deplore the deficiencies of the questionnaire used, which did not include any investigation of the personal relationship of the respondents with the members of the police forces.

The concentration of a great number of policemen in the large urban centres seems, rather paradoxically, to lead to the creation of a sort of free zone, where the traditional and modern justice negotiate a certain sharing of jurisdictions.

One of the two main factors responsible for this situation is the fact that the ethnic groups, or at least the major ones, have representatives in the police or constabulary. Thus, when certain members of their group are involved in a minor crime (theft, assault and battery), they used their influence to see that the case is not brought before the court. This is implied in the answers given by the persons interviewed to the question: "When a person is arrested and taken to the police station, it is claimed that he may be released if he gives some money or a "gift" to the policeman. In your opinion, does this happen: never? rarely? sometimes? often? always?" Only about 19.8% (17.0% natives of the Ivory Coast and 22.6% foreigners) replied that this never occurred, whereas 38.6% thought it happened rarely or sometimes, and 31% (35.8% nationals and 26.2% immigrants) believed this practice occurred often (21%) or always (10%).

As we have said, in the minds of many Africans, this is not so much corruption as a situation of fair exchange. The fact that foreigners apparently have little possibility of taking advantage of these "negotiations" points to the validity of our hypothesis. To confirm it, we would

have had to know whether the persons questioned knew any policemen, whether the latter belonged to their ethnic group, whether they could have made an "arrangement" with them, and in what circumstances and under what conditions. This all important aspect of the relationship between the police and the people was beyond the scope of our research, and we can only hope that other studies will be able to go further into this question in the future.

The second factor that prompts this complicity between the public and the forces of law and order is that the police and constables have to count on the citizens to accomplish their work. In addition, they are obliged to screen the criminal cases that come to their attention, because the courts are overburdened and already working to capacity. This is clearly the case in Abidjan. Due to this situation, the discretionary power of the police is greatly increased, allowing them to reinterpret the juridic norms in line with the aspirations of the citizens.

The enormous gap noted between crime known to the police and that recorded by the court is an indication that many disputes undergo a process of bargaining at the police level. If, in the African cities, the police enjoy a favourable reputation (whereas the administrative authorities and foreign observers tend to brand them as "corrupt"), it is because the citizens have the choice of calling upon the services, in terms of a legitimacy they themselves define by reporting the infractions. It is also because the police serve as a buffer between the masses and the courts, if not as substitute judge. In this sense, there is no doubt that they serve as a bridge, a catalyser, between the customary procedures and the modern law.

The attitudes of Africans vis-à-vis the courts and correctional policy

People have much less knowledge and understanding of the activities of the judicial system than they do those of the police forces. This fact is borne out by all the surveys, both in Europe and North America. In a quantitative exploratory study (Robert and Faugeron, 1971), carried out among 200 Frenchmen, 81.5% were of the opinion that criminal justice was so complicated it would take a specialist to understand any of it. In 1975, during a national survey done by the same authors, and using a sample of 1,868 persons representative of the French population, 55% more specifically stated that - in the field of criminal justice - everything had been done so that no one could understand it, and 47.9% found it annoying that the judges were nearly all of the upper classes.

The meaning and significance of what goes on in court escapes most people. Whereas the policeman is someone we know and with whom we can more easily identify because he is one of the "people", it is the opposite for the personnel (judge, lawyer for the defence, prosecutor...) at the court level. The imposing architecture of the building that houses the courts, the ceremonial rituals that surround the trial, the polished language, strewn with references to articles of law and jurisprudence, as well as the flights of oratory that resound in the courtroom, all combine to create a distance between this world of "intellectual" specialists and the citizens.

In Africa, this distance is much more pronounced, for the procedures and laws were made for Europeans and applied to a people who have a

very limited knowledge of the new law and its methods of enforcement. The contrast between the pompous trappings of the court and the ignorance, confusion and isolation of the accused verges, in many cases, on contempt for the prisoner, who appears ridiculous, if not injustice.

Douyon (1972), who studied 129 cases of flagrant delict judged by the Abidjan court, found that the accused did not understand much of what was happening to them or what was taking place before their eyes. Uncomfortable, intimidated, accused in turn by the victim, the police and the prosecutor, and called to account by the judge, they do not know how to react and adopt awkward behaviour that becomes ludicrous:

> As the reporter of "Fraternité-Matin" writes, it is not surprising that the accused, who sometimes appears as though "not in possession of all his mental faculties", "seems completely lost", "turns about like a "weathercock", and "wonders whether he is supposed to face the judge or the public". Thus at bay, he resorts to a defensive strategy that often aggravates his case. He asks the judge's pardon and that of the court. "He pleads ignorance of the Ivory Coast Law". "You are a dangerous man", says the judge. "I know", answers the accused... (p. 132).

From his observations, Douyon comes to this conclusion, which is based soundly on the evidence and is at the same time a most severe judgment of the administration of justice:

> The general impression one gets of appearances before the court in cases of flagrant delict is that the die is cast from the start. The accused is literally handed over to justice without any defence. Compared with the guarantees for the protection of individual rights, society appears to be too well protected. (p. 133).

In Africa, there is a pronounced gap between the people's view of the police system and their perception of the judicial system. First, because geographically, the distance between the two becomes greater and greater. In the Ivory Coast, for example, there are police and constabulary in 130 localities, court branches in 25 urban centres, and assize courts in only three cities. We have seen in a previous chapter how the accessibility of the agencies influences the volume of infractions and crimes reported, and the number of these is directly connected with the distance separating them from the citizens. Since these agencies are centred in the most densely populated towns, they first absorb the urban crime, which, at the same time is the least likely to be "taken over" by the customary law.

Secondly, as the geographic distances separating the police stations and detachments of constabulary from the courts increases, there is a corresponding cultural distance that becomes more and more pronounced. Going from the police and constables to the judges, lawyers and prosecutors, we climb the social scale to a level where the agents interpret the juridic norms much more according to the letter ("in the European way") than the spirit of the law, as is frequently done in the case of intervention by the police and constabulary.

The survey conducted in Abidjan showed us that the Africans living in this capital city thought, in respective proportions of 61.9 and 79.6%, that it was better to settle disputes outside the system of criminal justice, depending on whether the case arose in a city or a village. Among them, 23.1% believed that, in general, people resorted to amicable

settlement often or always, whereas for the villages, a higher proportion of respondents (44.4%) stated that disputes, even the most serious ones, were always settled without calling upon the official justice system. The survival of the traditional justice, although for the most part due to the adherence of the clan members to their ancestral values, especially in the countryside where the people are more isolated, can also be attributed to the incompatibility of the major orientations of the two concepts of justice, the modern and the customary.

Modern justice, even in a large city like Abidjan, is far from gaining the adherence of a large majority of the population. Of the 1,000 persons questioned, 36.8% (44.8% Ivory Coast natives and 28.8% foreigners) agreed in saying that the penal system (the laws, courts, etc.) were not suitable for Ivory Coast society. A larger number of respondents, 45.7%, of which 47.4% were nationals and 44.6% immigrants, stated the opposite. However, the difference is closer than it would seem. Because of the nature of the question, 27% of the foreigners abstained from answering. The distribution of the opinions of only the Ivory Coast citizens shows that the margin is small (44.8% and 47.4%) between those who considered the laws and courts poorly adapted to the needs of their society and those who held the opposite view. Furthermore, 41.5% of the sample (against 55.6%) thought the modern justice was a justice for "whites" and that it was better not to resort to it too often. Similarly, 42.5% (against 51.5%) said the modern laws were not as good as the customary laws.

On the basis of these opinions, it would seem that a little more than half of the Abidjan citizens (between 51.5% and 55.6%) accept the

penal code and the state legal institutions as legitimate and adequate. Moreover, 53.2% of the Ivory Coast natives and 60.6% of the foreigners admitted they preferred the modern courts "because the judges were more honest and just than the traditional judges". These attitudes may seem to be inconsistent with the fact that these same persons, or about two-thirds of them, are in favour of first settling a dispute by conciliation and arbitration, if possible. It is only a seeming contradiction, for it is not so much the modern laws themselves that cause the people's distrust, but their enforcement, that is, the sanctions they impose and the ponderous nature of the procedures.

We must not forget that the sample was exclusively urban. In the rural milieu, very probably the answers would have been different. But in a large city, the courts play a role in settling disputes directly, especially in conflicts between persons from clans or tribes who cannot come to an agreement because they have no common institutions. They also play a role as courts of appeal in cases of litigation where the parties involved could not arrive at a satisfactory settlement before the customary authorities. The judicial system, then, offers a supplementary choice that is fairly important to the people. Even more, by its very existence, it has established peace by putting an end to the inter-ethnic wars that crimes and infractions inevitably provoked between opposing tribes before the colonization.

To admit the usefulness of the modern criminal justice system is one thing, but to resort to it is another. In the villages, and to a

lesser degree in the cities, it is used as a last resort. The African's hesitation to appeal to a judge is due to the fact that the people do not understand the functioning of the courts nor do they see the advantages they can offer. According to our sample, 62.5% of the respondents find that "modern justice is too complicated and the population does not understand any of it". They scarcely differ from Westerners in this respect.

Of greater significance are the answers to the questions relating to the adequacy of the sentences in terms of the people's expectations. Among the 1,000 subjects interviewed, 66% were of the opinion that "the judges of the courts do not take the customs into account and pronounce judgements that do not satisfy the population". This clearly shows the extent of the conflict between "codes" that emanate from two cultural contexts, each conveying their own particular values. These conflicts between the norms of different cultural groups almost infallibly occur, according to Sellin (1938) in three situations:

> 1 - "when these codes clash on the border of contiguous culture areas;
> 2 - when, as may be the case with legal norms, the law of one cultural group is extended to cover the territory of another; or
> 3 - when members of one cultural group migrate to another" (p. 63).

In African cities, these three factors not only exist but reinforce one another.

As we have seen, in the urban areas, there is an intermingling of African cultures. Each of these has different characteristics, sometimes strongly marked, and it is only the short-sightedness of Westerners that

makes them tend to minimize these differences and consider them homogeneous. Sohier (1954) states that there is less diversity among the 400 to 500 millions who people Europe, from Spain to Russia, than among the 15 million Africans who inhabit the former Belgian colonies. These native cultural entities, besides being confronted by one another, have to contend, particularly in the large urban centres, with the European culture, which the governments recognize as dominant. The fact of having imposed the legal norms of Western civilizations on the black populations further accentuates the culture conflict. Finally, a large number of Africans who live in the cities are immigrants and are therefore in a situation where they are torn between the requirements of the new law and those of the juridic regulations of their own group.

These clashes between the different cultural norms result in an anomie that engenders criminal behaviour to the extent where, as Sellin says, "the transformation of a culture from a homogeneous and well-integrated type to a heterogeneous and disintegrated type is therefore accompanied by an increase of conflict situations" (p. 66). Thus the urban polyculturalism necessarily accelerates juridic acculturation, and by diminishing the ancient structures of social control before the new ones are effective, the opportunities for delinquent behaviour increase in the cities, where the anonymity weakens the pressure on their members to adhere to the prohibitions specific to the various cultural groups. And since the Africans are not disposed to immediately adopt penal codes and judicial mechanisms that are foreign to them, a good many crimes and infractions, as we have seen, are not brought to the attention of the police or the courts.

CONCLUSION

The very profound lack of understanding that prevents many Africans from using the courts is due to the basic difference between their correctional philosophy and that of the judicial system. The latter, through the use of penal sanctions, seeks to reinforce norms that do not always correspond with those of the people (condemnation of the dowry, trial by ordeal, the killing of "serpent children"). The legislator, through the intermediary of the courts, forces the establishment of a new order, the imposition of "more civilized" rules of conduct, and, in so doing, goes against certain traditional norms inculcated throughout the entire process of social training. And in order to hasten the change, the administration uses punishments, which - in the eyes of the people - result in the institutionalizing of a certain number of injustices.

In 1965, at Vavoua in the Ivory Coast, a woman accused of sorcery asked to prove her innocence by undergoing trial by poisoning. As soon as she had swallowed the concoction, she died. The case came to the knowledge of the constabulary and the chief of the village was arrested as being responsible for the woman's death. He was judged and convicted. In a situation of this sort, how can the villagers be made to understand that adherence to customs can be a crime? For them there was no doubt. If the woman died, it was because she was really a sorcerer. Why, then, was their chief accused as a criminal and convicted. Where is the justice in this? The difference in the legal norms thus leads the traditional groups to isolate themselves, to become ingrown, to distrust a system that protects the guilty (the sorcerers) and condemns the innocent (those who

render the ancestral justice). They hide those aspects of their social life and beliefs that are opposed to the way of life and thinking of the "whites" and the "elite" of the large cities. They will apppeal to the court only when they have no alternative or when they can obtain some benefit.

However, the only advantage they can gain at present is if they have been victimized by foreigners or members of different clans or tribes. The social defence policies of modern justice are principally aimed at the punishment of the guilty, whereas the traditional justice is primarily based on the compensation of the victim in order to restore peace and harmony between families divided by the commission of the infraction.

In Africa today, imprisonment is the sanction most often used, even for minor infractions motivated by poverty and need. In 1967, 73% of the prisoners in Kenya, and in 1965, 69% of those in Nigeria, had been sentenced to penalties of less than six months. In Uganda, in 1969, 25% of the delinquents served terms of a month or less (Clinard and Abbott, 1973). In the Ivory Coast, in 1971, 54.6% of the prison sentences were for a duration of six months or less. The Africans are not satisfied with such measures. Either they find these penalties too lenient (if the offenders are immigrants), or (in the case of natives or kinfolk) they consider them unacceptable, or even deleterious, for by stigmatizing the guilty person, they prevent the reconciliation of the litigants and their families.

What has the African to gain from the courts when he knows in advance that the accused will be comdemned to prison? It will not restore his property to him and it will not compensate him for the injury he has suffered. According to this logic, it is natural that the citizen will not go to the police or the judge, except "when he cannot" he "has not been able to" obtain reparation. "When he cannot" means when the offender is unknown or when he has no relatives who can provide some hope of an amicable settlement. "When he has not been able to" is when the suspect says he is innocent or refuses to compensate the victim according to customary practice. This difference between the modern and traditional correctional philosophy leads us to believe that the customary law will continue to be practiced for a long time, because it corresponds to the people's deep-rooted concept of justice. A large proportion of the Abidjan sample, that is, 66.6%, agreed that "the courts punish the delinquents but do nothing for their victims".

It is unfortunate that the African States have not been prompted by the orientation of the traditional justice to develop a system of sanctions that would have stressed the compensation of victims. All the more so since the Africans are accustomed to receiving compensation, thus restoring peace between the opposing parties. As Hassenfratz (1974) puts it, "the transaction erases the infraction" (p. 38). In making good the damage, the offender makes amends and is reintegrated in the community. The victim, by accepting reparation, pardons the offence and can no longer harbour feelings of resentment towards the delinquent which would be prejudicial to the cohesion of the group.

The rapid changes brought by development tend to weaken this social cohesion and, in extreme cases, cause a degeneration of all the ancestral values. This could mean the disintegration of the sacred ties of kinship and, at the same time, the disappearance of all justice, of all community spirit. There would then be a dramatic regression in society - a veritable genocide. In his book "People of the Deer", Turnbull (1973) gives us an apocalyptic picture of the destruction of fundamental values that followed a government policy which evicted the Iks from their hunting lands in the Northeast of Uganda to create a National Park.

Confined in the mountains, these hunters, once happy and prosperous, were unable to convert to farming and - in the space of three generations - the idea of social solidarity was replaced by a struggle for life, by a frantic egocentrism where the only thing that counted was individual survival. Little by little, they gave up their community life and lost even the virtues of hope, compassion, love, mutual aid, kindness and fairness. As Turnbull saw them, the Iks today take the very food out of the mouths of their parents, turn their children from the family enclosure from the age of three in order not to have to feed them, leave the old, the sick, the infirm to die in total indifference, and are concerned only with their personal survival. This is what the changing of their way of life did to a people of the deer.

This sad example shows to what extent a structural change in society can affect a community. Elsewhere in Africa, the evolution is slower, perhaps, but its effects are no less harmful. No doubt the author, in studying the Iks, remembered what a Congolese, named Masoudi,

told him during a previous study in 1965: "I believed in your civilization, even though I didn't understand it, and I tried to imitate you. But in doing so, I lost my soul. Somewhere, it left me; perhaps in Matadi, perhaps when I wanted to prevent initiation. The fact is, it has left me and I am empty" (p. 41).

It is evident that the new law and the administrative institutions necessary for its functioning answer the conditions of city life more than those of the rural majority who live in Africa. However, even in the cities, where many diverse ethnic groups living side by side makes a "common law" - one that is above the individual laws of each group - almost obligatory, the criminal justice system, insufficiently developed to be effective, seems itself to contribute to a "regression" towards primitive justice. Sanogho (1976) states that, only very recently, in Mali, the floggings of thieves by their victims "marked the trend among the inhabitants to defend themselves in view of the administrative inefficiency. More and more, cases of lynching are being discovered" (p. 95). The same trend is found in Abidjan and in other large African cities, such as Kampala, for example.

It can be assumed, then, that the modern justice is not only unadapted to the traditional thinking, but is also incapable of checking the new criminality engendered by the cities. This, of course, is not something that is specific to Black Africa. On the contrary, it is common to all the criminal justice systems in industrial societies, particularly those that are most highly developed. The difference lies in the fact that the ethnic groups manage to control their criminality and that, in

the eyes of the native population, the system of the whites, presented as "superior", is not proving its superiority. In the face of this failure, the people are inclined to resort to "good old methods", to take the law into their own hands. This only creates a greater gap between the administration and the citizens. Where can all this lead - these spiralling reactions that accentuate more and more the malfunctioning of the institutions? Perhaps, over the more or less long term, to an "Africanization" of criminal justice, expressed in the "counter-acculturative" movement which, since their independence, marks the willingness of the African States to reorganize. The political, economic and cultural panafricanism shows this general desire to return to the ancient values, to redefine the African personality and erase the humiliations of colonization by a re-evaluation of "negritude" through the recognition and imposition of an "African identity" - the characteristic cultural traits of Africa.

The African, like Isis scouring Egypt in search of the scattered limbs of murdered Osiris, her unfortunate brother and husband, will perhaps succeed in finding the ancestral fragments of his culture and revive it once again unless the economic and neocolonialist hold of the western countries make of this quest but an illusory vision, like the fabulous, but ephemeral castles of Morgan le Fey.

Bibliography

ADEYEMI, A.A. (Ed.) (1977). Nigerian Criminal Process. Lagos: University of Lagos Press.

AKIGA. (1939). Akiga's Story. London: International African Institute.

ALLIOT, M. (1964-65). L'État et le droit pénal. Cours d'institutions privées africaines et malgaches (pp. 212-313). Paris: Faculté de droit.

ALLIOT, M. (1965). Les résistances traditionnelles au droit moderne, in Jean Poirier: Études de droit africain et de droit malgache (pp. 235-255). Paris: Cujas.

ALLIOT, M. (1968). L'acculturation juridique, in Ethnologie générale (pp. 1181-1247). Encyclopédie de la Pléiade. Paris: Gallimard.

AMIOT, M. (1974). Coup d'oeil rapide sur la situation pénitentiaire en Côte d'Ivoire. Quatrième colloque de criminologie comparée d'Afrique occidentale (pp. 48-77). Montréal-Abidjan. Centre International de Criminologie Comparée: Université de Montréal.

ANCEL, M. (1975). Pour une étude systématique des problèmes de politique criminelle. Archives de politique criminelle 1 (pp. 15-43). Paris: Éditions Pédone.

ANDERSON, J.N.D. (1965). The Adaptation of Muslim Law in sub-Saharan Africa, in H. Kuper & L. Kuper (Ed.): African Law: Adaptation and Development (pp. 149-165). Berkely and Los Angeles: California Press.

ANDRESKI, S. (1968). The African Predicament. New York: Atherton.

ARNAUD, J.C. (1972). Infrastructure routière et des transports. Atlas de la Côte d'Ivoire. Abidjan: Ministère du Plan.

AUGE, M. (1969). Le rivage alladian: organisation et évolution des villages alladian. Paris: ORSTOM.

AUGE, M. (1975). Théorie des pouvoirs et idéologie. Paris: Hermann.

AUGI, El. M. (1975). Le phénomène de la criminalité au Moyen-Orient. L'Afrique du Nord et l'Asie de l'Ouest: développement et société (pp. 120-153). Centre International de Criminologie Comparée: Université de Montréal.

BALANDIER, G. (1955). Sociologie actuelle de l'Afrique noire. Paris: Presses Universitaires de France.

BALANDIER, G. (1971). Sens et puissance. Paris: Presses Universitaires de France.

BAMBA, N. (1957). Les Africains devant la réforme judiciaire de 1946. Paris: Mémoire, E.N.F.O.M.

BANTON, M. (1969). West African City. A Study of Tribal Life in Freetown. London-Ibadan-Accra: Oxford University Press.

BARIL, M. (1977). La criminalité et l'environnement urbain. Centre International de Criminologie Comparée. Université de Montréal.

BARIL, M., DE TROY, C., ESTEVAO, R. (1976). Le public et la politique criminelle. Centre International de Criminologie Comparée. Université de Montréal.

BASSITCHE, A. (1974). Mineurs délinquants et autorité parentale à Abidjan. Quatrième colloque de criminologie comparée d'Afrique occidentale (pp. 129-156). Abidjan-Montréal; Centre International de Criminologie Comparée: Université de Montréal.

BASTIDE, R. (1956). La causalité externe et la causalité interne dans l'explication sociologique. Cah. intern. de socio., XXI.

BAUMANN, H., ESTERMANN' D. (1967). Les peuples et les civilisations de l'Afrique. Paris: Payot.

BAYLEY, D.H. (1969). The Police and Political Development in India. Princeton: Princeton University Press.

BEATTIE, J.H.M. (1960). Homicide and Suicide in Bunyoro, in Paul Bohannan (Ed.): African Homicide and Suicide (pp. 130-154). Princeton, New Jersey: Princeton University Press.

BEATTIE, J. (1972). Introduction à l'anthropologie sociale. Paris: Payot.

BENTSI-ENCHILL (1969). Plaidoyer pour une commission du droit africain. Revue sénégalaise de droit, Vol. 3, no 5.

BINET, J. (1965). Afrique en question, de la tribu à la Nation. Paris: Mame.

BOHANNAN, P. (1957). Justice and Judgments among the Tiv. London: Oxford University Press.

BOHANNAN, P. (Ed.) (1967). Law and Warfare, Studies in the Anthropology of Conflict. Austin and London: University of Texas Press.

BONI, A. (1963). La mise en pratique des lois dans les Nations en voie de développement. Annales internationales de criminologie, Premier semestre, 88-100.

BOUTILLER, J.L. (1960). Bongouanou, Côte d'Ivoire. Paris: Éditions Berger-Levrault.

BRILLON, Y. (1973). Evolution de la criminalité en Côte d'Ivoire. Psychopathologie africaine, Vol. IX, no 1, 41-78.

BRILLON, Y. (1974). La prévention du crime et l'élaboration des sentences en Côte d'Ivoire. Quatrième colloque de criminologie comparée d'Afrique occidentale (pp. 13-36). Abidjan-Montréal; Centre International de Criminologie Comparée: Université de Montréal.

BRILLON, Y. (1975). Criminalité et développement: le cas de l'Afrique noire. Service social dans le monde, 34ième année, no 2, 12-25.

BRILLON, Y. (1977). L'acculturation juridique en Afrique noire et ses incidences sur l'administration de la justice criminelle. Annales Internationales de Criminologie. Volume 16 No 1 et 2. Paris: Société Internationale de Criminologie.

BUCHMANN, J. (1962). L'Afrique noire indépendante. Paris: Librairie générale de Droit et de Jurisprudence.

CALVEZ, J.-Y. (1971). Aspects politiques et sociaux des pays en voie de développement. Paris: Dalloz.

CANNON, W. (1942). Woodo Death. American Anthropologist, 42, 169-181.

CARBONNIER, J. (1972). Sociologie juridique. Paris: A. Colin.

CAZENEUVE, J. (1957). Les rites et la condition humaine. Paris: Presses Universitaires de France.

CAZENEUVE, J. (1971). Sociologie du rite. Paris: Presses Universitaires de France.

CENTRE INTERNATIONAL DE CRIMINOLOGIE COMPARÉE (1972). Premier colloque de criminologie comparée d'Afrique occidentale. Montréal-Abidjan: Université de Montréal.

CENTRE INTERNATIONAL DE CRIMINOLOGIE COMPARÉE (1973). Troisième colloque de criminologie comparée d'Afrique occidentale. Montréal-Abidjan: Université de Montréal.

CENTRE INTERNATIONAL DE CRIMINOLOGIE COMPARÉE (1974). Quatrième colloque de criminologie comparée d'Afrique occidentale. Montréal-Abidjan: Université de Montréal.

CENTRE INTERNATIONAL DE L'ENFANCE (1959). Conditions de vie de l'enfant africain et délinquance juvénile. Travaux et Documents, XII: Paris.

CHEVALIER, L. (1958). Classes laborieuses et classes dangereuses. Paris: Plon.

CLASTRES, P. (1974). La société contre l'État. Paris: Les Éditions de Minuit.

CLIFFORD, W. (1963). The Evaluation of Methods Used for the Prevention and Treatment of Juvenile Delinquency in Africa South of the Sahara. International Review of Criminal Policy, no 21, 17-31.

CLIFFORD, W. (1964). The African View of Crime. The British Journal of Criminology, Vol. IV, 483-490.

CLIFFORD, W. (1965). Problems in Criminological Research in Africa South of the Sahara. International Review of Criminal Policy, no 23, 11-17.

CLIFFORD, W. (1966). La formation en vue de la lutte contre le crime dans le contexte du développement national. Revue internationale de politique criminelle, no 24, 9-25.

CLIFFORD, W. (1967). Le crime et la planification du développement. Revue internationale de politique criminelle, no 25, 9-22.

CLIFFORD, W. (1974). An Introduction to African Criminology. Dar es Salam-Lusaka-Addis Ababa: Oxford University Press.

CLINARD, M.B. et ABBOTT, D.J. (1973). Crime in Developing Countries: A Comparative Perspective. New York: John Wiley & Sons.

COISSY, D.M. (1974). La politique criminelle des États d'Afrique noire. Genève: Éditions Médecine et Hygiène.

COLSON, E. (1962). The Plateau Tonga of Northern Rhodesia: Social and Religious Studies. Manchester: Manchester University Press.

COMHAIRE-SYLVAIN, S. et J. (1971). Le nouveau dossier Afrique. Marabout Université, Verviers: Gérard & Co.

CORMIER, B. (1966). A Criminological Classification of Criminal Processes. Crime, Law and Correction, by Ralph Slovenko, Springfield, Illinois: Charles C. Thomas Publisher.

COSTA, Jacqueline (1969). Penal Policy and Under-Development in French Africa, in Alan Milner (Ed.): African Penal Systems (pp. 360-390). London: Routledge & Kegan Paul.

COSTA-LASCOUX, Jacqueline (1975). Le droit pénal, l'unité nationale et le développement économique, in Archives de politique criminelle 1 (pp. 93-119). Paris: Éditions A. Pedone.

CRAWFORD, T.H. (1973). Police over Perceptions of Ghetto Hostility. Journal of Police Science and Administration, 1, 168-174.

CROCE SPINELLI, N. (1967). Les enfants de Poto-Poto. Paris: Grasset.

CUSSON, M. (1972). Notes sur le problème de la délinquance juvénile: le cas d'Abidjan. Premier colloque de criminologie comparée d'Afrique occidentale (pp. 49-68). Abidjan-Montréal: Centre International de Criminologie Comparée. Université de Montréal.

CUVILLIER, A. (1960). Manuel de sociologie: Tome second. Paris: Presses Universitaires de France.

DANIEL, R. (1968). De la savanne à la ville. Paris: Éditions Aubier-Montaigne.

DAVID, Ph. (1965). Aspects humains de la justice et principalement de la justice pénale au Niger, in Jean Poirier: Études de droit africain et de droit malgache. Paris: Cujas.

DAVID, R. (1973). Les grands systèmes de droit contemporains. Paris: Dalloz.

DAVIDSON, B. (1969). Les Africains, introduction à l'histoire d'une culture. Paris: Éditions du Seuil.

DAVID, F.J. et al. (1962). Society and the Law: New Meaning for an Old Profession. New-York: The Free Press.

DE BOECK, A. (1975). Contribution à l'étude du système moral de la jeunesse zairoise. Louvain-Paris: Vander/Nauwelaerts.

DELMAS, A. (1973). Rôle et fonction de la gendarmerie. Troisième colloque de criminologie comparée d'Afrique occidentale (pp. 91-108). Abidjan-Montréal, Centre International de Criminologie Comparée: Université de Montréal.

DELMAS, A. (1975). Droit pénal coutumier africain. Thèse de 3ième cycle inédite. Paris: Mouton & Co. et École Pratique des Hautes Études.

DELUZ, A. (1970). Organisation sociale et tradition orale. Les Gouro de Côte d'Ivoire. Paris: Mouton & Co. et École Pratique des Hautes Études.

DESCHAMPS, H. (1969). La première codification africaine: Madagascar 1828-81, in Max Gluckman (Ed.): Ideas and procedures in african customory law (pp. 165-180). London: Oxford University Press, Ely House.

DESCLOITRES, R. (1968). Préface, in R. Daniel: De la savanne à la ville. Éditions Aubier-Montaigne.

DIAMOND, A.S. (1935). Primitive Law. London and New York: Longmans, Green.

DIOUF, El H. (1966). Détournement de derniers publics et délits assimilés au Sénégal. Actes du XXIième cours intern. crim. Abidjan. (pp. 551-562). Paris: Librairie générale de Droit et de Jurisprudence.

DIOUF, El. H. (1973). La connaissance scientifique de la criminalité en Afrique de l'Ouest. Troisième colloque de criminologie comparée d'Afrique occidentale (pp. 180-194). Abidjan-Montréal: Centre International de Criminologie Comparée: Université de Montréal.

DOUYON, E. (1972). La criminalité et le système de défense sociale en Côte d'Ivoire. Premier colloque de criminologie comparée d'Afrique occidentale (pp. 116-135). Abidjan-Montréal; Centre International de Criminologie Comparée: Université de Montréal.

DOUYON, E. (Ed.) (1974). Criminologie comparée. École de Criminologie. Montréal: Université de Montréal.

DU BOIS, V.D. (1967). Prostitution in the Ivory Coast. Fiedstaff Reports, West African Series, Ivory Coast, X, no 2.

DUBOW, F.L. (1973). Justice for People: Law and Politics in the Lower Courts of Tanzania. Unpublished Doctoral Dissertation, University of California, Berkeley.

DUMONT, R. (1962). L'Afrique noire est mal partie. Paris: Seuil.

DUNDAS, C. (1921). Native Law of some Bantu Tribes. Journal of the Royal Anthropological Institute, Vol 51, 217-278.

DURAND, M., THOMAS, M. and WILLCOCK, H.D. (1972). Crime, Criminals and the Law. Office of Population Censuses and Surveys, Social Surveys Division, Southampton.

DURKHEIM, e. (1960). De la division du travail social. (12ième édition). Paris: Presses Universitaires de France.

DUVIGNAUD, J. (1973). Le langage perdu. Paris: Presses Universitaires de France.

DYSON-HUDSON, N. (1966). Karimojong Politics. London: Oxford University Press.

ELIADE, M. (1965). Le sacré et le profane. Paris: Gallimard.

ELIAS, T.O. (1961). La nature du droit coutumier africain. Paris: Présence Africaine.

ENNIS, P.H. (1967). Criminal Victimization in the United States: A Report of a National Survey. President's Commission of Law Enforcement and the Administration of Justice. Field Surveys III. Washington D.C.: U.S. Government Printing Office.

ETIENNE, P. et M. (1968). L'émigration baoulé actuelle. Cahier d'Outremer, no 82, avril-juin.

EVANS-PRITCHARD, E.E. (1937). Witchcraft, Oracles and Magic among the Azande. Oxford: The Clarendon Press.

EVANS-PRITCHARD, E.E. (1968). Les Nuer. Paris: Gallimard.

FALLERS, L.A. et FALLERS, M.C. (1960). Homicide and Suicide in Dusoga, in Paul Bohannan (Ed.): African Homicide and Suicide (pp. 65-94). Princeton, New Jersey: Princeton University Press.

FATTAH, A.E. (1971). La criminologie, sa nature, son avenir. Revue Critère, no 4, Montréal, 101-118.

FATTAH, A.E. (1975). (Ed.). Les Canadiens et la peine de mort: étude d'une attitude sociale. Université Simon Fraser. Canada.

FAUGERON, C. et ROBERT, Ph. (1971). L'image de la justice criminelle dans la société. Paris: Service d'Études Pénales et Criminologiques.

FAUGERON, C. et ROBERT, Ph. (1975). L'image de la justice criminelle dans la société; phase extensive. Paris: Service d'études pénales et criminologiques.

FERRI, E. (1905). La sociologie criminelle. Paris: Félix Alcan.

FERRIER, F. (1972). Considérations sur la pensée religieuse africaine. L'Afrique occidentale (pp. 207-272). Centre International de Criminologie Comparée: Université de Montréal.

FURSTENBERG, Jr. F.F. (1971). Public Reaction to Crime in the Streets. The American Scholar, 40, 4, 601-610.

GIBBAL, J.-M. (1974). Citadins et paysans dans la ville africaine, l'exemple d'Abidjan. Paris: Maspero.

GIBBS, J. (1962). Poro Values and Courtroom Procedures in a Kpelle Chiefdom, Southwestern Journal of Anthropology, 18, 341-350.

GIBBS, J. (1967). The Kpelle Moot, in Paul Bohannan (Ed.): Law and Warfare (pp. 270-290). New York: Natural History Press.

GILISSEN, J. (Ed.) (1969). L'organisation judiciaire en Afrique noire. Université Libre de Bruxelles: Édition de l'Institut de Sociologie.

GILISSEN, J. et VANDERLINDEN, J. (1969). L'organisation judiciaire en Afrique noire: essai de synthèse, in J. Gilissen (Ed.): L'organisation judiciaire en Afrique noire (pp. 9-69). Université Libre de Bruxelles: Édition de l'Institut de Sociologie.

GLUCKMAN, M. (1955). The Judicial Process among the Barotse of Northern Rhodesia. Manchester: Manchester University Press.

GLUCKMAN, M. (1963). Order and Rebellion in Tribal Africa. London: Cohen.

GLUCKMAN, M. (Ed.) (1969). Ideas and Procedures in African Customary Law. London: Oxford University Press, Ely House.

GLUCKMAN, M. (1971). Politics, Law and Ritual in Tribal Society. Oxford: Basil Blackwell.

GLUECK, S. et E. (1962). Family Environment and Delinquency. London: Routledge & Kegan Paul.

GODDARD, P.E. (1963). Life and Culture of the Hupa, in University of California. American Archeology and Ethnology, I, 1-88.

GONIDEC, P.F. (1968). Les droits africains: évolution et sources. Paris: Librairie générale de Droit et de Jurisprudence.

GOUDOT, G. (1975). Les données d'une politique criminelle dans les pays en voie de développement. Archives de politique criminelle 1 (pp. 119-143). Paris: Éditions A. Pedone.

GRAY, J.C. (1921). The Nature and Sources of the Law. Colombia University Press.

GREEFF, E de (1947). Les instincts de défense et de sympathie. Paris: Presses Universitaires de France.

GREEN, M.M. (1947). Ibo Village Affairs. London: Sigwick & Jackson.

GULLIVER, Ph. (1963). Social Control in an African Society. A Study of the Arusha: Agricultural Masai of Northern Tanganyika. London: Routledge & Kegan Paul.

GUTH, J.-M. (1960). Quelques aspects de la criminalité à Madagascar. Revue internationale de criminologie et de police technique, no 4, 295-255.

GUTH, J.-M. (1967). Esquisse d'une évolution du droit pénal malgache des origines à nos jours. Revue internationale de criminologie et de police technique, no 1, 15-22.

HASSENFRATZ, Ch. (1974). Le phénomène criminel dans un pays en voie de développement: l'exemple de la Côte d'Ivoire. Thèse inédite de doctorat en droit. Université de Droit, d'Économie et de Sciences Sociales de Paris. Paris II.

HELVETIUS, M. (1969). Fonctionnement de la justice en milieu coutumier au Burundi, in John Gilissen (Ed.): L'organisation judiciaire en Afrique noire (pp. 227-247). Université Libre de Bruxelles: Édition de l'Institut de Sociologie.

HERSKOVITS, M.J. (1965). L'Afrique et les Africains. Paris: Payot.

HOEBEL, E.A. (1940). The Political Organization and Law-Ways of the Comanche Indians. Santa Fe: Santa Fe Laboratory of Anthropology.

HOEBEL, E.A. (1954). The Law of Primitive Man. Cambridge, Mass.: Harvard University Press.

HOEBEL, E.A. (1968). The Law of Primitive Man. New York: Atheneum.

HOLAS, B. (1966). Les Senoufo. Paris: Presses Universitaires de France.

HOOD, R. et SPARKS, R. (1970). La délinquance. Paris: Hachette.

HOUCHON, G. (1971). Methodological Aspects of African Criminology. Proceedings of the XXth International Course in Criminology (pp. 185-195). Lagos. Annales Internationales de Criminologie. Vol 10, no 1.

HOUCHON, G. (1973). Rapport au commissaire d'État à la justice: La protection de la jeunesse et la formation du personnel. Kinshasa; Centre de Criminologie et de Pathologie Sociale.

HOUYOUX, P. (Ed.) (1966). Pathologie dans la socialisation du jeune congolais d'aujourd'hui. Kinshasa: République Démocratique du Congo.

HOWELL, P.P. (1954). A Handbook of Nuer Law. London: Oxford University Press.

HUTCHISON, T.V. (Ed.) (1968). Africa and Law. Madison: The University of Wisconsin Press.

JACOBS, R. (1972). La multiplication des billets de banque. Abidjan: Institut de Criminologie.

JACOBS, R. et al. (1974). Aperçu des moyens et des tâches de la police ivoirienne pendant l'année 1973. Quatrième colloque de criminologie comparée d'Afrique occidentale (pp. 77-90). Abidjan-Montréal: Centre International de Criminologie Comparée. Université de Montréal.

JEFFERY, C.R. (1959). The Historical Development of Criminology. Journal of Criminology and Police Science, 50.

JEFFREYS, M.D.W. (1952). Samsonic Suicide or Suicide of Revenge amongst Africans. African Studies, Vol XI, no 3, 118-122.

JHERING, R. von (1872). La lutte pour le droit. Paris: Marescq.

KALOGEROPOULOS, D. (1973). L'image de la justice au sein de la population française. Laboratoire de Sociologie Criminologie de l'Université de Droit, d'Économie et de Sciences Sociales de Paris.

KASHAMURA, A. (1972). Culture et aliénation en Afrique. Paris: Édition du Cercle.

KATZENBACH, N. de B. (1968). The Challenge of Crime in a Free Society: A Report by the President's Commission on Law Enforcement and Administration of Justice. New York: Avon Books.

KINBERG, O. (1956). La connaissance de l'infra-structure biologique de l'acte délictueux comme base d'une criminogenèse objective, in L'Homme criminel (pp. 35-57) Louvain-Paris: Éditions Nauwelaerts.

KOHLER, J.M. (1971). Les migrations des Mossi de l'Ouest. Haute-Volta: ORSTOM. Centre de Ouagadougou.

KOUASSIGAN, G.A. (1974). Quelle est ma loi? Tradition et modernisme dans le droit privé de la famille en Afrique noire francophone. Paris: Éditions A. Pedone.

LAFLAMME-CUSSON, S. et BARIL, M. (1975). La détention des mineurs dans la région de Montréal. 4 vol. École de Criminologie, Université de Montréal.

LA FONTAINE, J. (1960). Homicide and Suicide among the Gisu, in Paul Bohannan (Ed.): African Homicide and Suicide (pp. 94-130). Princeton, New Jersey: Princeton University Press.

LAGIER, P.M. (1971). La criminalité des adultes au Sénégal. Thèse de maîtrise inédite. École de Criminologie, Université de Montréal.

LAMBO, T.A. (1965). Les problèmes de la délinquance juvénile dans les pays en voie de développement, envisagés du point de vue de l'hygiène mentale. Troisième congrès des Nations Unies pour la prévention du crime et le traitement des délinquants. Organisation Mondiale de la Santé. Pa/22.65.

LAURENT, E.L. (1908). Le criminel. Paris: Vigot Fres Editeurs.

LEFEVRE, C. (1972). Pays Dogon. Paris: Sté Nlle des Éditions de Chêne.

LE ROY, E. (1971). Droit et développement en Afrique noire francophone après dix années d'indépendance politique. Revue sénégalaise de droit, no 9, 53-72.

LE ROY, E. (1974). Justice africaine et oralité juridique "traditionnelle" à la lumière d'une théorie générale du droit oral d'Afrique noire. Bulletin de l'I.F.A.N., T. XXXVI, sér. B. no 3.

LEVINE, R.A., LA FONTAINE, J. et BEIDELMAN, C. (1963). in J. Middleton and E.H. Winter (eds): Witchcraft and Sorcery in East Africa. London: Routledge & Kegan Paul.

LEVI-STRAUSS, C. (1962). Le totémisme aujourd'hui. Paris: Presses Universitaires de France.

LEVY-BRUHL, H. (1968). L'ethnologie juridique, in Ethnologie Générale (pp. 1111-1181), sous la direction de Jean Poirier. Encyclopédie de la Pléiade: Gallimard.

LLEWELLYN, K.N. and HOEBEL, E.A. (1941). The Cheyenne Way. Norman: University of Oklahoma Press.

LLOYD, D. (1966). The Idea of Law. Guilford, Enr., MacGibbon and Kee Ltd.

LOWIE, R. (1935). Traité de sociologie primitive. Paris: Payot.

MAQUET, J. (1966). Les civilisations noires. Paris: Marabout Université. MV-120.

MALINOWSKI, B. (1970). Crime and Custom in Savage Society. Ninth Impression, London: Routledge & Kegan Paul.

MANGIN, G. (1960). La justice pénale en Afrique et à Madagascar. Revue sciences crim. et de droit pénal comparé. Nouvelle série, Tome XV, no 2, 233-255.

MARWICK, M.G. (1965). Sorcery in its Social Setting: A Study of the Northern Rhodesian Cewa. Manchester University Press.

M'BAYE, K. (1970). Le droit africain - ses voies et ses vertus. Revue sénégalaise de droit, Vol 4, no 7, 5-24.

MBOUYOM, Fr-X. (1975). Droit pénal moderne et survivance de la justice traditionnelle. Yaoundé: Cour Suprême du Cameroun.

MELONE, S. (1975). Les grandes orientations actuelles de la législation pénale en Afrique: le cas du Cameroun. Archives de politique criminelle 1 (pp. 143-179). Paris: Éditions A. Pedone.

MENDE, T. (1972). De l'aide à la recolonisation. Les leçons d'un échec. Paris: Seuil.

MERCIER, P. (1968). Anthropologie sociale et culturelle, in Ethnologie Générale (pp. 881-1037), sous la direction de Jean Poirier. Encyclopédie de la Pléiade. Paris: Gallimard.

MESSENGER, J.C. (1959). Religious Acculturation among the Anang Ibibio, in W.R. Bascom and M.J. Herskovits (Eds): Continuity and Change in African Cultures. Chicago.

MICHOTTE, J. (1967). Essai d'appréciation des effets des opérations de développement à partir de l'étude d'un groupe de budgets familiaux, Côte d'Ivoire. ORSTOM: Centre d'Adiopodoumé.

MIDDLETON, J. (1960). Lugbara Religion: Ritual and Authority Among an East African People. London: Oxford University Press for the International African Institute.

MILNER, A. (Ed.) (1969). African Penal Systems. London: Routledge & Kegan Paul.

MINISTÈRE DE L'INFORMATION (1970). Côte d'Ivoire: faits et chiffres. Abidjan: Service de la documentation générale et de la presse.

MINISTÈRE DE LA JUSTICE (1973). Côte d'Ivoire: décret no 73.547 du 5 décembre 1973. Abidjan: Journal officiel du 10 janvier 1974.

MINISTÈRE DU PLAN (1974). Côte d'Ivoire: exposé sur la situation démographique. Procès-verbal du 18.06.74.

MITCHELL, J.C. (1956). The Yao Village. Manchester University Press for the Rhodes-Livingstone Institute.

MITCHELL, J.C. (1965). The Meaning of Misfortune for Urban Africans, in M. Fortes and G. Dierterlen: African Systems of Thought. London: Oxford University Press.

MONTEIL, V. (1964). L'Islam noir. Paris: Seuil.

MORRIS, H.F. (1970). Some Perspectives of East African History. Uppsala: The Scandinavian Institute of African Studies.

MOURGEON, J. (1969). La République de Côte d'Ivoire. Institut International d'Administration Publique. Paris: Berger Levrault.

MULLER, J.-C. (1972). Droit coutumier et structures judiciaires nouvelles: quelques considérations. L'Afrique occidentale: développement et société (pp. 368-379). Centre International de Criminologie Comparée, Université de Montréal.

MUSHANGA, T.M. (1974). Criminal Homicide in Uganda. Kampala, Nairobi, Dar Es Salaam: East African Literature Bureau.

NATIONS UNIES (1960). Quelques considérations sur la prévention de la délinquance juvénile dans les pays africains subissant des changements sociaux rapides, par le Secrétariat des Nations Unies, Re. int. pol. crim., no 16, Nations Unies, 33-53.

NATIONS UNIES (1970) Politique de défense sociale et planification du développement. Document de travail préparé par le Secrétariat. Quatrième congrès des Nations Unies pour la prévention du crime et le traitement des délinquants. Kyoto, Japon: 17-26 août 1970.

NKAMBO MUGERWA, P.J. (1969). Status, Responsibility, and Lialibity: A Comparative Study of Two Types of Society in Uganda, in Max Gluckman (Ed.): Ideas and Procedures in African Customary Law (pp. 279-292). London: Oxford University Press.

OKONKWO, C.O. (1966). The Police and the Public in Nigeria. Lagos: African Universities Press.

OLIVER, R. and FAGE, J.D. (1966). A Short History of Africa. Baltimore: Penguin Books Inc.

OLORUNTIMEHIN, O. (1970). The Role of Family Structure in the Development of Delinquent Behaviour among Juveniles in Lagos. The Nigerian Journal of Economic and Social Studies, Vol 12, no 2, 185-204.

OLORUNTIMEHIN, O. (1971). Ibadan Juvenile Court Record Study (1960-69). University of Ibadan: Behavioural Science Unit.

OLORUNTIMEHIN, O. (1973). The Difference between Peal and Apparent Criminality. Second West African Conference of Comparative Criminology (pp. 298-309). Faculty of Law, University of Lagos, Nigeria.

ORGANISATION INTERNATIONALE DE POLICE CRIMINELLE (INTERPOL). Statistique criminelles internationales: 1971-1972. Paris: Secrétariat Général.

PAULME, D. (1962). Une société de Côte d'Ivoire: hier et aujourd'hui, les Bété. Paris-La Haye: Mouton et Cie.

PENWILL, D.J. (1951). Kamba Customary Law. London: Macmillan.

PERISTIANY, J.G. (1954). Pokot Sanctions and Structure. Africa, Vol XXIV, no 1, 17-27.

PIERRE, E., FLAMAND, J.P., COLLOMB, H. (1962). La délinquance juvénile à Dakar. Rev. int. pol, crim., no 20, Nations Unies, 27-35.

PINTO, R. et GRAWITZ, M. (1969). Méthodes des sciences sociales. Paris: Dalloz.

PLASS, M.W. (1951). Poids à or des Ashanti, in l'Art nègre (pp. 163-166). Présence Africaine. Paris: Éditions du Seuil.

POIRIER, J. (1968). Introduction à l'ethnologie de l'appareil juridique, in Ethnologie Générale (pp. 1091-1111), sous la direction de Jean Poirier. Encyclopédie de la Pléiade: Gallimard.

POIRIER, J. (1969). L'analyse des espèces juridiques et l'étude des droits coutumiers africains, in Max Gluckman (Ed.): Ideas and procedures in african customory law (pp. 97-109). London: Oxford University Press, Ely House.

POPOVA, A. (1970). L'arbre et le mariage, in Le thème de l'arbre dans les contes africains. Paris: Éditions Calame-Griaule. Bibliothèque SELAF-20.

POSPISIL, L. (1958). Kapauka Papuans and their Law. Yale University Publications in Anthropology, no 54. New Haven: Yale University Department of Anthropology.

POSPISIL, L. (1967). The Attributes of Law, in Paul Bohannan (Ed.): Law & Warfare (pp. 25-43). Austin and London: University of Texas Press.

POSPISIL, L. (1973). E. Adamson Hoebel and the Anthropology of Law. Law & Society Review, Vol 7, Number 4.

POSPISIL, L. (1974). Anthropology of Law: A Comparative Theory. New Haven: HRAF Press.

POUND, R. (1923). Interpretation of Legal History. London: Cambridge University Press.

RADCLIFFE-BROWN, A.R. (1933). Primitive Law. The Encyclopedia of the Social Sciences, Vol IX, New York, 202-206.

RADCLIFFE-BROWN, A.R. (1949). Preface, in M. Fortes and E.E. Evans-Pritchard (Eds): African Political Systems. London: Oxford University Press.

RADCLIFFE-BROWN, A.R. (1952). Structure and Function in Primitive Society: Essays and Addresses. New York: The Free Press.

RADCLIFFE-BROWN, A.R. (1968). Structure et fonction dans la société primitive. Paris: Les Éditions de Minuit.

READ, J. (1969). Kenya, Tanzania and Uganda, in Alan Milner (Ed.): African Penal Systems (pp. 87-164). London: Routledge & Kegan Paul.

REDFIELD, R. (1967). Primitive Laws, in Paul Bohannan (Ed.): Law & Warfare (pp. 3-25). Austin and London: University of Texas Press.

REMY, G. (1973). Les migrations de travail et les mouvements de colonisation mossi. Paris: ORSTOM.

RIBY-WILLIAMS, J. (1960). The Treatment of Juvenile Delinquency in the Gold Coast of West Africa. Rev. intern. de pol. crim., Nations Unies, no 16, 33-43.

RIEFFENSTAHL, L. (1976). Les Nouba. Paris: Édition du Chêne.

RIVES, G. (1975). Les problèmes de l'évolution de la politique criminelle au Sénégal depuis l'Indépendance. Archives de politique criminelle 1 (pp. 179-213). Paris: Éditions A. Pedone.

ROBERT, A.P. (1975). L'évolution des coutumes de l'Ouest africain et la législation française. Paris: Encyclopédie d'Outre-Mer.

ROBERT, Ph. (1977). Les statistiques criminelles et la recherche. Réflexions conceptuelles. Déviance et Société, Genève, Vol 1, no 1, 3-27.

ROUSSEL, L. (1967). Côte d'Ivoire 1965, synthèse des études régionales, Abidjan: Ministère du Plan.

ROYAL COMMISSION ON THE POLICE (1962). The Relation between the Police and the Public. The Social Survey, Central Office of Information. London: H.M.S.O.

SALMOND, J. (1937). Jurisprudence. London: Swett and Maxwell.

SANOGHO, A. (1976). Inadaptation sociale et traitement des délinquants au Mali. Thèse inédite de doctorat en droit (3ième cycle spécialisé). Université de Droit, d'Économie et de Sciences Sociales de Paris. Paris II.

SAVARY, C. (1968). Poids à peser l'or du Musée d'Ethnographie de Genève. Bulletin Annuel (pp. 47-122). Genève: Musée et Institut d'Ethnographie.

SCHAPERA, I. (1938). A Handbook of Tswana Law and Custom. London: International Institute for African Languages and Cultures.

SCHILLER, A.A. (1968). Introduction, in T.W. Hutchison (Ed.): Africa and Law (pp. vii-xviii). Madison: The University of Wisconsin Press.

SCHWARTZ, A. (1971). Tradition et changements dans la société Guéré. Paris: ORSTOM.

SEID, B. (1968). La criminalité au Tchad, in XVIe cours international de criminologie (pp. 12-24). Abidjan, sept. 1966. Paris: Librairie Générale de Droit et de Jurisprudence.

SEIDMAN, R.B. (1968). Law and Economic Development in Independant, English-Speaking, sub-Sahara Africa, in T.W. Hutchison (Ed.): African and Law (pp. 3-75). Madison: The University of Wisconsin Press.

SEIDMAN, R.B. and EYLSON, J.D. (1969). Ghana, in Alan Milner (Ed.): African Penal Systems (pp. 59-88). London: Routledge & Kegan Paul.

SELLIN, T. (1938). Culture Conflict and Crime. New York: Social Science Research Council.

SHAW, M., WILLIAMSON, W. (1972). Public Attitude to the Police. The Criminologist, 7 (26), 18-23.

SMITH, W. and ROBERTS, N. (1954). Zuni Law: A Field of Values. Cambridge, Mass: Peabody Museum.

SOHIER, A. (1954). Traité élémentaire de droit coutumier du Congo belge. Bruxelles: Larcier.

SOHIER, A. (1957). La justice répressive au Congo belge. Revue de droit pénal et de criminologie, no de jubilé, 349-356.

SOUTHALL, A.W. (1960). Homicide and Suicide among the Alur, in Paul Bohannan (Ed.): African Homicide and Suicide (pp. 214-230). Princeton, New Jersey: Princeton University Press.

STEENHOVEN, G. Van den (1959). Legal Concepts among the Netsilik Eskimos of Pelly Bay, N.W.T., Report no 59-3. Ottawa: Northern Co-ordination and Research Center.

STEENHOVEN, G. Van den (1962). Leadership and Law among Eskimos of the Keewaten District, Northwest Territories. The Hague: Uitgeverij Excelsior.

SUTHERLAND, E.H. and CRESSEY, D.R. (1966). Principes de criminologie. Paris: Éditions Cujas.

SZABO, D. (1976). Agression, violence et systèmes socio-culturels: essai de typologie. Revue de science criminelle et de droit pénal comparé, no 2, 377-398.

TANNER, R.E.S. (1970a). The witch Murders in Sukumaland. A Sociological Commentary. Uppsala: Scandinavian Institute of African Studies.

TANNER, R.E.S. (1970b). Homicide in Uganda 1964. Uppsala: The Scandinavian Institute of African Studies.

TANNER, R.E.S. (1970c). Three Studies in East African Criminology. Uppsala: The Scandinavian Institute of African Studies.

TARDIF, G. (1976). Le contrôle social de la délinquance: la police. École de Criminologie, Université de Montréal.

TEMPELS, P. (1949). La philosophie bantoue. Paris: Présence Africaine.

TEWKSBURY, W.J. (1967). The Ordeal as a Vehicle for Divine Intervention in Medieval Europe, in Paul Bohannan (Ed.): Law & Warfare (pp. 267-271). Austin and London: University of Texas Press.

THEBAULT, E. (1960). Les lois et coutumes malgaches, Code des 305 articles. Tananarive, Imp. Officielle.

TROUCHAUD, J.-P. (1971). Population par départements et par sous-préfectures, Atlas de Côtes d'Ivoire, Ministère du Plan. Abidjan: ORSTOM.

TSCHOUNGUI, S.P. et ZUMBACH, P. (1962). Diagnostic de la délinquance juvénile au Cameroun. Revue internationale de politique criminelle, no 20, Nations Unies, 35-49.

TURNBULL, C.M. (1957). Initiation among the Bambuti Pygmies of the Central Ituri. Journal of the Roy. Anthr. Inst., no 87, 191-216.

TURNBULL, C.M. (1965). L'Africain désemparé. Paris: Seuil.

TURNBULL, C.M. (1973). Un peuple de fauves. Paris: Édition Stock.

TURNER, V.W. (1957). Schism and Continuity in an African Society: A Study of Ndemba Village Life. Manchester: Manchester University Press for the Rhodes-Livingstone Institute.

VANDERLINDEN, J. (1969). Coutumier, manuel et jurisprudence du droit Zande. Université Libre de Bruxelles: Édition de l'Institut de Sociologie.

VAN VELSEN, J. (1964). The Politics of Kinship: A Study in Social Manifestation among the Lakeside Tonge of Nyasaland. Manchester: Manchester University Press for the Rhodes-Livingstone Institute.

WEBER, M. (1967). Law in Economy and Society. Trans. by Edwards Shils and Max Rheinstein. New York and Schuster: Rheinstein (Ed.).

WEINBERG, S.K. (1973). Female Delinquency in Ghana, West Africa: A Comparative Analyses. International Journal of the Sociology of the Family, March, 471-481.

WHYTE, Karibi A.G. (1974). Cultural Pluralism and the Formulation of Criminal Policy. Law Revision & Research, Ministry of Justice, Port Harcout, Nigeria.

WILSON, G.M. (1960). Homicide and Suicide among the Joluo of Kenya, in Paul Bohannan (Ed.): African Homicide and Suicide (pp. 179-214). Princeton, New Jersey: Princeton University Press.

WINANS & EDGERTON (1965). Hehe Magical Justice. American Anthropologist, 65, 584-592.

ZARR, H.G. (1969). Liberia in Milner, A. (Ed.): African Penal Systems, London: Routledge & Kegan Paul.