Spanish Criminology: Past, Present and Future

1. SPANISH CRIMINOLOGY AT THE BEGINNING OF THE 20TH CENTURY

An important meeting was held at the Northwestern University in Chicago in June 1909. Worried about the increasing crime problem, it was decided:

‘... to make available in the English language the most useful treatises [on Criminology] now extant in the Continental languages. Our country has started late. There is much to catch up with, in the results reached elsewhere. We shall, to be sure, profit by the long period of argument and theorizing and experiment which European thinkers and workers have passed through’.²

A great inspiration came with the first volume in this ‘Modern Criminal Science Series’, by the Spanish author C. Bernaldo de Quirós, and later volumes in the same series by Tarde, Lombroso and Bonger. What was soon to be called ‘the Chicago school’ recovered rapidly from this backward state.

As the necessity of a Spanish textbook to help the Americans catch up shows, criminology was a vigorous and active field in Spain at the beginning of the 20th century. The first School of Criminology in Madrid was founded in 1903. At that time, there was no clear distinction between Criminal Law, Criminal Policy and Criminology.³ In text books on Criminal Law one finds, intermingled with the discussion of traditional legal concepts, theories on the causes of crime, suggestions on corrections in prisons and on law reforms. It was a dynamic, inspiring and somewhat chaotic field, with investigation ranging from the study of female prisoners in Madrid,⁴

1. Per Stangeland is Deputy Director of the Institute of Criminology in Málaga, Spain. He holds a Social Science degree from Oslo, Norway, and a PhD from Leyden, Holland.
to ear lobes and how they could help explain hereditary traits of crime disposition, or studies on banditry and highway jacking in Andalusia.

2. CRIMINOLOGY IN THE FRANCO PERIOD

This all came to an abrupt end with the Civil War. Many academics were shot or escaped into exile. Those who remained during the Franco regime went into what the Russians call ‘inner exile’.

There are important practical differences between an authoritarian and a totalitarian state. Totalitarian regimes, like Nazi Germany and the Soviet Union, demand enthusiastic endorsement of their politics. Research is needed to justify the ruling ideology and consolidate thinking. An authoritarian state, like Franco’s Spain, is less ambitious. Academics were not expected to play an important role in cheering the regime. They might hold on to university chairs as long as they did not mix with troublemakers and did not challenge official views.

The regime was not exactly benevolent. Hundreds of thousands were shot during the Civil War, another 50,000 in the post war period, and forced labour camps blossomed all over the country, with a total number of 200,000 prisoners. However, one could avoid repression by keeping quiet. Sociology and Psychology retreated back to the master science Theology, and Criminal Law lost interest in crime, crime prevention, law enforcement and prisons. In the 1950s they escaped into the make-believe world of legal dogmas and abstract concepts, copied from German legal scholars, refraining from any subject that might be considered political. These tendencies were already present in the criminal law debate before the Civil War, but won out completely when Franco took over. That, obviously, rules out criminology. Also, it separates Criminal Law from police studies, corrections and criminal procedure. Spain never followed the tradition of the ‘Gesamte Strafrechtswissenschaft’ of Franz v. Liszt, teaching Criminal Law and Criminal Process as a unified subject. In the 1950s they were kept completely separate, so that the purity of Criminal Law concepts would not be polluted by the harsh realities of law enforcement. In Spain Criminal Law is still taught the way sexual education is given in nunnery school, where they explain what sex is about, but they don’t tell you how it is done.

To be fair to Spanish Law schools in the period of Franco, some basic decency in criminal court rulings was guaranteed, and the independence of the Judiciary was defended. Nazi style Criminal law was never endorsed, which means that Spain, even in the repressive 1940s, never mixed the legality principle with Willensstrafrecht. And, as opposition against the regime increased in the 60s and 70s, university professors joined in. The student movement in central and northern Europe in the late 1960s was directed against authoritarian leadership at the universities. In Spain, the