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Comparative Law as Basic Research

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This paper discusses three subjects. *First*, and most important, it addresses the need to discover and delineate the structure of a scientific theory of penal law. *Secondly*, I submit that comparatists and other scholars should concentrate on the action of legislators, judges and ministerial officers with reference to penal violations, conformity and obedience. I call this subject "law-as-action." *Thirdly*, there is the need to address the problem of types of knowledge and where among them the comparative law discipline should be placed.

Many legal scholars accept as law all rules backed by sanctions and issued by the political sovereign. But "basic research," "principles," and "method"¹ have epistemological connotations. Our first topic, therefore, calls for philosophical inquiry enlightened by legal knowledge, especially of penal law, or rather legal scholarship sensitive to the significance of philosophical analysis. In this view it cannot be assumed that "penal law" has a definite universally accepted meaning. Since the elucidation of "penal law" presupposes the definition of "positive law," the class within which penal law is contained and within which it must be distinguished from non-penal law, inquiry must first be focused on "positive law."²

The concept of positive law that one subscribes to depends on

* This paper was presented at the International Colloquy held in Freiburg, W. Germany, October 23-25, 1978, celebrating the dedication of a new building to house the Max Planck Institute for Foreign and International Criminal Law. Stylistic changes have been made, several footnotes have been added, and certain statements in the oral presentation have been clarified or amplified.

1. These terms were used in the printed program to indicate the meaning of the assigned topic.

2. J. HALL, *COMPARATIVE LAW AND SOCIAL THEORY* 49-59 (1963).

one's philosophy of law;³ these philosophies now include existential and phenomenological philosophies of law. For the present purpose, however, where a determination of this question is limited and guided by the characteristics of knowledge of comparative law, the issue may be narrowed to a choice between legal positivism and natural law-sociological theories. Specifically, we must find which of these types of concepts of law more adequately satisfies the needs of comparative law research.

In dealing with this question it is helpful to look first to the past, to the views of distinguished scholars regarding comparative law. The salient fact is that even comparatists like Gutteridge and his students, David and Hamson, who said that comparative law is only a method, also held that it is important to study the function of law and its social context.⁴ Opposed to the view that comparative law is only a method was the position of other comparatists who held as long ago as the 1900 Paris conference that comparative law is the sociology of law.⁵ Their successors include such distinguished comparatists as Rabel, Rheinstein and others.⁶ What is important here is to recognize that there was a very significant area of agreement in the views of all the above comparatists. They all recognized the importance of knowledge of function, social context and sociology, as distinguished from the analytical knowledge sought in legal positivism.

Without depreciating the achievement of positivism in analysis, it is plain that legal positivism is quite inadequate for comparative study, and it is no accident that leading legal positivists have not been much interested in comparative law. The reason is that legal positivism, based on the fact of state power, concentrates on the political structure and the interrelations of all commands of the sovereign⁷ or on the implications of a *Grundnorm*.⁸ Legal posi-

3. *Id.* at 70.

4. H. GUTTERIDGE, *COMPARATIVE LAW* (2d ed. 1949); R. DAVID, *TRAITÉ ÉLÉMENTAIRE DE DROIT CIVIL COMPARÉ* (1950); C. HAMSON, *THE LAW: ITS STUDY AND COMPARISON* (1955).

5. *CONGRÈS INTERNATIONAL DE DROIT COMPARÉ TENU À PARIS DU 31 JUILLET AU 4 AOUT 1900, PROCÈS-VERBAUX DES SÉANCES ET DOCUMENTS* (1905). For these scholars comparative law is a type of knowledge, a social science. For further references see J. HALL, *supra* note 2, at 10.

6. Rabel, *Some Major Problems of Applied Comparative Law, Especially in the Conflict of Law*, (Aug. 1948), a report to the Institute in the Teaching of International and Comparative Law; Rheinstein, *Teaching Comparative Law*, 5 U. CHI. L. REV. 617, (1938); and Rheinstein, *Teaching Tools in Comparative Law*, 1 AM. JOUR. COMP. L. 95, 98 (1952) [hereafter cited as *Teaching Tools*].

7. This position was held by John Austin, who defined the law in terms of the "com-

tivism ignores the content of enactments and decisions and claims to be neutral regarding moral valuation. While for the legal positivist content is not relevant to the analysis of structure, the comparativist believes that a search for the content of enactments and decisions is essential.⁹

Legal positivists discuss the logical validity of certain laws, their efficacy and their effect on "happiness". This *ad hoc* sort of knowledge is contributed by legal philosophers who deal with specific laws but not with the problems met in constructing a concept of law in general.¹⁰ Accordingly, when they speak of good laws and bad laws, but not of law, they remain on the level of ordinary speech. In taking that direction they fail to provide a concept of law; when they do provide such a concept, the latter reflects their positivist view of law. Thus, among legal positivists, Kelsen does construct a concept of law, but he depreciates moral values and facts; hence, his science of law is strictly formal. If one follows the previously noted comparatists' references to function, social context, and sociology to their final implication, their goal is not a formal science but an empirical, qualitative type of knowledge.¹¹

One important view of this kind of knowledge assimilates sociology of law to empirical science.¹² Empirical science consists of generalizations about common facts found in experience. The field of data or, if one prefers, the experience of data, must be uniform if the generalizations are to be valid. Thus, for example, the law of falling bodies is limited to the uniform conditions of a perfect vacuum; the chemical elements described in terms of their atomic

mand of the sovereign". For criticism of Austin's position see Manning, *Austin Today*, in *MODERN THEORIES OF LAW* 180 (1933).

8. The most important 20th century work is H. KELSEN, *GENERAL THEORY OF LAW AND STATE* (A. Wedberg trans. 1945).

9. For an introduction to the modern origins of comparative law see J. HALL, *supra* note 2, at 15-21.

10. "Most English writers have, in defining law, defined it in the concrete instead of in the abstract sense. They have attempted to answer the question: What is a law? while the true inquiry is: What is law?" J. SALMOND, *JURISPRUDENCE* 38 (7th ed. 1924). Beale criticized the positivist school for ignoring the systematic aspect of the common law. J. BEALE, *TREATISE ON THE CONFLICT OF LAWS* § 3.4, at 47 (1935), *reprinted in READINGS IN JURISPRUDENCE* 410, 411. (J. Hall ed. 1938).

11. For example, Professor Max Rheinstein stated that comparative law "is the observational and exactitude-seeking science of law in general . . . it searches for . . . laws in the sense in which the word is used in the 'sciences,' laws of the kind of Newton's laws of gravitation . . . laws . . . in that sense in which the word is understood in modern natural science". *Teaching Tools*, *supra* note 6, at 98-99. See also R. DAVID, *supra* note 4, at 6.

12. J. HALL, *supra* note 2, at 23-26.

weight are descriptions of the same kind of datum.

In all fields, and on one or another level, science is concerned with uniformities. Where science erred in the past, the reason was usually the undetected presence of an alien substance. If we apply the requirement that the field of data must be uniform to the present question, it becomes apparent that if morally valid enactments or decisions are not distinguished from immoral, outrageous ones, the essential condition of valid generalization is not satisfied, indeed, it is rendered impossible. If we wish to advance comparative knowledge, we must not only take account of the content of enactments and decisions, but also divide and classify it into uniform types.

In appraising the following suggested concept of law,¹³ it is necessary to keep in mind that what is needed is a descriptive definition that is adequate by reference to its correspondence with relevant realities. A defensible concept of law must specifically represent:

1. the moral validity of positive law;
2. the important functions of such law;
3. its regularity rather than its systematic character if primitive law is to be included;
4. its protection of public interests;
5. its effectiveness;
6. its supremacy in the hierarchy of norms; and
7. its inexorability.

This last requirement implies inclusion of the sanction in the concept of law and, for penal law, the distinctive character of its sanction.¹⁴ This does not warrant interpretation of punishment apart from the criteria specified in the hypotheses of penal laws, since the ethical meaning of "harm" and "act" is necessary to the correct elucidation of the meaning of "punishment."

Thus we have derived the meaning of "penal law" by determining first the essential characteristics of positive law, and then distinguishing penal law from the non-penal members of the class. We must now consider another essential prerequisite of comparative study, namely, mastery of one's own penal law, knowledge of those other parts of one's legal system required for expert

13. For supporting discussion see J. HALL, FOUNDATIONS OF JURISPRUDENCE ch. 5 (1973).

14. The concept of 'sanction' as an integral part of positive law has been a much debated subject. See J. HALL, *supra* note 2, 51-57.

knowledge of that penal law and a scientific understanding of penal law.

Scientific Knowledge of Penal Law

If we examine a field of universally recognized scientific knowledge, for example physics, we find that the organized character of that science is particularly significant.¹⁵ In other words, the laws of physics are so logically interconnected as to form a system; each law has therefore not only logical but also substantive significance for other laws. Scientific thought or method has also found expression in law, *e.g.*, in the division of European penal codes into a general and a special (specific) part. I believe that we can advance much farther in the use of scientific method, and organize penal law much more systematically than has been achieved in the dominant treatises.¹⁶

If we borrow from scientific knowledge and seek a similar goal, we can distinguish three levels of generalization that comprise the substantive criminal law. These are: "rules," "doctrines," and "principles". These terms represent progressively wider concepts. "Rules" state what is distinctive in each crime. For example, they state the material elements of larceny or robbery, including the particular *mens rea* of each crime without reference to justification or excuse. These normal definitions are qualified by more general propositions usually called "defences," such as those concerning infancy, insanity, ignorance or mistake, coercion, self-defense, and necessity, propositions that I call "doctrines". In addition to the above doctrines of excuse and justification, there are "relational" doctrines concerning complicity, solicitation, conspiracy, and attempt. When all the doctrines are applied to all the rules, a minimal statement of the criminal law of any country is expressed.

But in advanced legal systems there is an additional and most important feature that must be incorporated into a science of criminal law. One can derive the ultimate categories which permeate the combined set of propositions from the union of all the rules and all the doctrines. These are the seven principles of criminal law, namely, legality, *mens rea*, effort (or "act"), the fusion of *mens rea* with effort (or act) to comprise conduct, harm, the causal

15. "Science searches for relations . . . its coherent systems." Einstein, in READINGS IN THE PHILOSOPHY OF SCIENCE 779 (H. Feigl & M. Brodbeck, eds. 1953).

16. H. JESCHECK, LEHRBUCH DES STRAFRECHTS (1978); W. LAFAVE & A. SCOTT, JR., HANDBOOK ON CRIMINAL LAW (1972); G. WILLIAMS, CRIMINAL LAW (2nd. ed. 1961).

relation between conduct and harm, and the punitive nature of the sanction. In sum, there are three kinds of propositions which comprise the substantive criminal law. From their interrelations we see that the rules are limited by the doctrines and the principles are implicit in that union of rules and doctrines.

These interrelations deserve closer inspection. For example, the principle of *mens rea* is derived from all the relevant doctrines, such as insanity and mistake, and also from the significance of the "normal" *mentes reae* described in the rules. The defendant frequently does not plead an excuse or justification; he simply denies the charge in the indictment. If he is found guilty, his *mens rea* is the "normal" one expressed in the rules minus the doctrines, that is, he was a sane adult, knew the facts, was not acting in self-defense and so on and, therefore, was neither justified nor excused. Thus, "*mens rea*" is given definite meaning by its necessary inclusion as "normal" in the rules and by its further explication by reference to the doctrines. Finally, if we ask why was the defendant justified or not justified or excused, we can state the answer in terms of the ultimate principles of the criminal law without implying that justification and excuse are wholly absorbed in those principles.

Although the principles are "ultimate" in the above indicated sense, they must be distinguished from the simple unity which characterizes concepts found in other sciences, such as physics. For example, *mens rea* is a fusion of cognition and volition, and the fact that *mens rea* adds meaning to the other principles implies that they, too, are not simple concepts. Thus, the principle of causation, linking conduct to harm, is qualified by the meaning of *mens rea*. If *mens rea* is limited to mental states which express voluntary conduct, such as intentionality and recklessness, that limitation restricts the meaning of causation as distinguished from scientific causation defined as the covariation of variables. *Mens rea* also qualifies "harm"; it is not simply a death or loss of possession that is a harm in penal law, but a death or loss of possession caused voluntarily by a sane, sober adult, in sum, without justification or excuse. Harm must be related to *mens rea* to define the latter concept. Thus, it is intentionally or recklessly committing a proscribed harm, not *mens rea* in isolation, that determines the meaning of "*mens rea*". Likewise, harm as a bridge between voluntary misconduct and punishment gives "punishment" a congruent meaning. Finally, the principle of legality serves as the formal ve-

hicle to place definite bounds on all concepts and propositions of penal law. This brief discussion of a broad subject only indicates the contextual significance of interrelated criminal law propositions and the desirability of organizing that *corpus juris*. All of the above distinctions drawn among principles, doctrines, and rules can be employed in analyzing all modern legal systems. Their organization provides the structure of a science of criminal law.

This organization of propositions also comprises an important vantage point from which one can reach out to compare one's penal law with the penal law of other countries. It is hazardous to assume that a verbal principle has the same operative meaning in both legal systems; but if we remember that a principle is an induction from rules and doctrines and that verbal formulas may not be actualized, comparative knowledge can be realistic.

Criminal Law-As-Action

This thesis is a departure from traditional views of comparative law. The traditional and still prevalent view is that the subject of such study is certain propositions comprising the normative concepts of penal law. To come directly to the conclusion I reached elsewhere after an extended discussion,¹⁷ I submit that the subject matter of comparative legal study should be law-as-action. Law-as-action is the integration of legal rules and other ideas, of the facts expressed in relevant manifested behavior and phenomena, and of the value of being directed towards good goals. Since legal scholars outside English-speaking countries may assume that this thesis is an expression of American Legal Realism,¹⁸ some crucial differences must be noted. First, I focus on action, not behavior. Second, I attach great significance to rules of law. Third, I reject the realists' separation of the Is and Ought of law. Accordingly, I find the moral validity of law essential in a defensible concept of law.¹⁹

The first support of the concept of law-as-action is found in the work of the legal comparatists previously mentioned,²⁰ especially in their emphasis on the function of legal rules. I have tried

17. J. HALL, *supra* note 13, ch. 6 (1973).

18. See K. LLEWELLYN, *JURISPRUDENCE* 3-101 (1962).

19. The work of Dilthey and other post-Hegelians concerning the expression of ideas in history as well as Max Weber's concentration on social action as the central concept of his sociology of law (except Weber's theory of a *wertfrei* social science) have had much influence on my theory of law-as-action.

20. Note 6 *supra*.

to build on their contribution in the following ways. Law-as-action is more precise than the function of law. First, function, as described by legal comparatists sometimes has a purely factual connotation that is not adequate regarding the expression of purpose and valuation.²¹ Second, there are still unresolved problems as to how ideas become actualized. These difficulties are avoided if we start with actions in which those ideas are included. Unlike the purer concepts of logic or mathematics, legal concepts refer to facts and events; accordingly legal rules are action concepts. In doctrinal analysis the scholar holds in mind his experience and his memory of the facts, actions, and events to which these concepts refer. Law-as-action is the articulation and the further extension of what necessarily but inadequately and sometimes misleadingly goes on in doctrinal analysis. The acceptance of law-as-action as the subject matter of comparative study requires a distinction between merely paper rules and operative rules. If we are interested in the maximum knowledge of penal law, we must go far beyond the boundaries of traditional doctrinal analysis.

The shift in focus from rules to actions is also supported, indeed it is required, by the shift in the type of problems comparatists are now expected to solve and by the corresponding change in intellectual interests. While scholars are free to concentrate on doctrinal analysis, it is also true that the legal problems of increasingly intermingled cultures and current scholarly interests support wide-ranging inquiries that draw on history, moral philosophy, and the social disciplines.

Since methods depend on the nature of the data studied and reflect the kind of knowledge sought in comparative study, many comparatists seem to have agreed that the objects of research are "common concepts."²² But, if we are to rise above the level of formalistic verbalism, we must focus our research on the actions of officials as the basic reference data from which we construct more cogent common concepts. Comparative study limited to the terms employed in penal codes finds common concepts among Japanese, European, and American penal codes. But, the same formula may

21. For an introduction to and criticism of legal functionalism see J. HALL, *supra* note 2, at 104-608.

22. For an introduction to the debate surrounding the notion of "common concepts of comparative law" see J. HALL, *supra* note 2, at 59-68. See also R. Schlesinger, *The Common Core of Legal Systems: An Emerging Subject of Comparative Study*, XXTH CENTURY COMPARATIVE AND CONFLICTS LAWS 65 (K. Nadelmann, A. von Mehren, & J. Hazard eds. 1961).

function differently in different cultures. For example, a modern South Korean Code gives women the same right to divorce as that given to men. A Western scholar might interpret this provision by imaging facts that are familiar in his culture. However, in Korea no woman has ever sued for divorce; the right given her is never actualized.²³ Again, in traditional Korean law, the eldest son inherited all of his father's estate, but he was socially constrained to divide the property among his brothers and sisters to their satisfaction. The provision in the modern Korean code that directly distributes the property among all the children has not supplanted the influence of the eldest son in determining what actually happens to the estate.²⁴ Traditional Japanese law made parricide the most serious homicide. Despite the fact that this has been dropped from current Japanese penal law it seems obvious that such a case would be treated very differently in Japan and in Western countries, even in France, whose Code includes a provision on "parricide."²⁵

There are many analogous situations within any given culture. There are often cases where the code says one thing while practice runs in a different direction. For example, in American states where adultery was the only ground for divorce, thousands of divorces were granted for quite different reasons on the filing of universally recognized fabrications of adultery. There are provisions in some codes that the same punishment should be imposed for attempt as for the consummated crimes but, in my study of that question some years ago, I found that invariably very different punishments were imposed.²⁶

If comparative legal study is to go beyond the verbal propositions in codes, it must distinguish paper rules from rules that are expressed in action. It must also distinguish between actions that express the rules and actions that depart from those formulations but are influenced by them. As stated, law-as-action may be characterized as the integration of legal and other ideas, the conduct manifested in the acts of legislators, judges, and ministerial officers and, also, the expression of values in reaching towards sound goals.

23. Personal communication to the author.

24. *Id.*

25. Code Pénal, art. 299.

26. French writers state that in actual administration, attempts are punished much less severely than the ultimate crimes. P. GARRAUD, *PRÉCIS DE DROIT CRIMINEL* 220-21 (15th ed. 1934); ROUX, *TRAITÉ ÉLÉMENTAIRE DE DROIT PÉNAL* 114 (2nd ed. 1927); P. GARRAUD & M. LABORDE-LACOSTE, *PRÉCIS ÉLÉMENTAIRE DE DROIT PÉNAL* 70 (12th ed. 1936). Cf. WESTERMARCK, *ORIGIN AND DEVELOPMENT OF THE MORAL IDEAS* 245-46 (1912).

Furthermore, law-as-action is free in the sense that it is not coerced. Law-as-action is also purposive and its goals are fixed by the social problems whose solutions are sought. Finally, it is helpful to distinguish the direct *results* of law-as-action from its *consequences*. For example, the result of penalizing the use of marijuana may be the deterrence of many prospective smokers, but an unsought consequence may be an increase in its illegal manufacture and sale.

A thorough study of law-as-action requires an analysis of the various levels of cognition of the legal comparatists of various cultures from the perspectives of relevant epistemologies. From the perspective of classical realism, one may speak of the discovery of the same universal in various instances of law-as-action. The classical realist view of thinking is congenial among legal scholars because they inspect and analyze verbal symbols such as rules, doctrines, and principles. Those who rely on resemblance theories reject what modernists call the "myth of universals".²⁷ Phenomenological theory finds cognition in action, in the perception of signs, and in imaging; this may be regarded as an intensive study of the principal concern of the sociologists of *Verstehen*.²⁸

But whatever epistemology is espoused, there is general agreement that the search must be for similarities among equally important differences. It is obviously much easier to discover recurrent similarities when we deal with such common physical qualities as redness or hardness or circularity. By comparison, the "universal" characteristics of human nature have been variously defined, extending from two or three common qualities to the ten characteristics specified by Scheler.²⁹ Law-as-action raises similar complexities. We are required to interpret the subject-matter of law-as-action by reliance on the knowledge and insight acquired in a particular culture, which may be influenced by the study of other cultures.

This thesis can be further elucidated by reference to the study of the law of preliterate societies and the work of anthropologists regarding the South Sea Islanders described by Malinowski³⁰ and

27. H. H. PRICE, *THINKING AND EXPERIENCE* (2nd ed. 1953).

28. *READINGS IN THE THEORY OF ACTION* (N. Care & C. Landesman eds. 1968); Schutz, *Common Sense and Scientific Interpretation of Human Action*, 14 *PHILOSOPHY AND PHENOMENOLOGICAL RESEARCH* 1 (1963). See also A. SCHUTZ, *COLLECTED PAPERS* (1964).

29. M. SCHELER, *MAN'S PLACE IN NATURE* 36 (H. Meyerhoff trans. 1961).

30. B. MALINOWSKI, *CRIME AND CUSTOM IN SAVAGE SOCIETY* (1926).

more recent research such as the cooperative work of Llewellyn and Hoebel on the Cheyenne Indians.³¹ Among the Cheyenne, for example, if someone makes off with a horse, the owner complains to the tribal leaders. This is followed by hearings before selected members of the tribe and the final imposition of a privation, from all of which a rule or rules can be inferred. The articulation of rules and their expression in permanent media are later developments.

Intermediate Character of Comparative Law

It is therefore a simplification, though a necessary addition, to say that the distinctive facts of history, institutions, and cultures negate any easy solution of this problem, and necessitate reliance on description to supplement the generalizations that do not include significant facts. History is thus essential in comparative study and thereby implies that intuition is a basic epistemological method of such research. Like art, history concentrates on particular persons, events, actions, and causes. Although the historian is influenced by various theories and generalizations, his purpose, unlike that of the sociologist, is not to verify those generalizations, but to concentrate on the particulars that are instances of them.³²

At the opposite extreme is the general knowledge of the physical scientist. The scientist omits all characteristics that do not come within his generalizations and seeks laws, *e.g.*, the expansion of gas in relation to the rise in temperature or, inversely, in relation to increase in pressure. Nineteenth century legal comparatists, influenced by biology, were interested in trend generalizations. For example, Maine speculated that the evolution of the law of progressive societies has been from a law of status to contract law.³³ Others formulated trends in terms of the stages of evolution, *e.g.*, from primitive mechanical law to highly differentiated laws.³⁴ In the 20th century the model of physics strongly influences sociologists who seek generalizations that express the co-variation of variables.

If we wish to describe the knowledge acquired by legal com-

31. K. LLEWELLYN & E. HOEBEL, *THE CHEYENNE WAY* (1941).

32. Hughes, *The Historian and the Social Scientist*, 66 *AM. HIST. REV.* 27 (1966); TOYNBEE AND HISTORY 115 (M. Ashley Montague ed. (1956)); Krieger, *The Horizons of History*, 63 *AM. HIST. REV.* 62, 67, 72 (1957).

33. H. MAINE, *ANCIENT LAW* 165 (F. Pollock ed. 1906).

34. E. DURKHEIM, *DIVISION OF LABOR IN SOCIETY* (G. Simpson trans. 1933).

paratists or even speculate on what is attainable in the foreseeable future, we must locate it intermediately between the particular knowledge of the historian and the wholly generalized knowledge of the physical scientist. This analysis is compatible with recent studies that have abandoned the search for a universal history, evolutionary trends, or co-variations and, instead, are concerned with the comparison of a branch of law of two or three legal systems or with certain rules or principles of the penal law of two or three countries. Thus, legal scholars concentrate on an intermediate type of knowledge—taxonomic knowledge. This results from the complexities that distinguish human actions from the relative simplicity of the data of physics or chemistry. A sociology of criminal law, if or when achieved, will need the support of both cultural legal history and the taxonomic character of current comparative study.

While all three types of knowledge— particular, general, and taxonomic—are important, there are many practical difficulties. Differences in temperament and limitations of time and equipment demonstrate the need for institutes where scholars can cooperate by focusing on one or another of the types of research required for full explanation. An institute could supplement traditional analysis by including among its members scholars interested in cultural legal history and in the sociology of penal law.

In view of the fact that an institute may be dedicated to the study of criminology as well as of penal law, as the Max Planck Institute, it is important to recognize that "criminology" is as ambiguous a term as is "penal law." One need only refer to the work of some 19th century Italian criminologists who excluded penal law from their definition of "crime"³⁵ to recognize the need for specification. Without attempting an elucidation of "criminology" such as that indicated above for "penal law," I suggest that a synthesis of the above outlined theory of penal law with that of the designated subject matter called "law-as-action" would provide the necessary determination that "criminology" be taken as synonymous with "sociology of penal law." A consensus on this point would inhibit far-ranging criminological studies, such as those regarding the causes of crime. Instead, the study of law-as-action guided by the structure of penal law, discussed above in terms of the interrelations of rules, doctrines, and principles, would coordinate the research of an institute's criminologists and legal scholars.

35. *E.g.*, R. GAROFALO, *CRIMINOLOGY* 4-5, 10, 33, 42, 51, 60 (R. Millar trans. 1914).