

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL

Distr. LIMITED
E/CN.14/SODE/19
22 August 1964
Original: ENGLISH

REFERENCE COPY
REGIONAL COMMISSIONS SECTION

ECONOMIC COMMISSION FOR AFRICA
Expert Group Meeting on Social Defence
Monrovia, 18-31 August 1964

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INTERNATIONAL ASSOCIATION OF
YOUTH MAGISTRATURE (IAYM)

Among his jurisdictional functions, a magistrate takes a considerable number of decisions concerning children, even when he is not judging juveniles who have committed offences against the penal law. It is he who controls and supervises guardianship activities, who settles difficulties relating to paternal care and authority, and who if need be decides upon educational measures at the request of parents.

Recent legislation concerning young offenders and juveniles in moral danger extends the magistrate's role into the field of social welfare activities to protect the juvenile by means of preventive action. The reasons for this development appear equally valid for the countries of Africa south of the Sahara.

Preventive action for the application of educational measures to a juvenile, whether it is taken officially or at the request of persons who have not custody of the young person concerned, impinges upon the freedom of the juvenile himself and the freedom of the parents in exercising paternal control. While the administrative authority is responsible for the management of public affairs and protection of the general interest, the magistrate sees to the maintenance of respect for individual freedoms and the regulation of their conflict with public order which is disturbed by juvenile misbehaviour.

The magistrate makes rulings and decisions which are enforceable by law if necessary, but against which appeals may be lodged.

Certain countries have obtained useful results by organizing a social service to work in association with the judge, to lay the groundwork for his decision and to control its implementation. It is easy to establish a liaison between the centres or services engaged in rehabilitation and the magistrate who has taken the decision, which may be modified at any time.

Sometimes the specialized branches of the police are in direct contact with the magistrate, who thus plays a co-ordinating role in addition to his jurisdictional role. In theory, these arrangements can be established easily, if the legislation is sufficiently flexible. All that is needed to put them into practice is perhaps to inform the judge of the social action which is required of him.

In the new states of Africa south of the Sahara, it is not always possible to have a specialist children's judge dealing exclusively with the problems of juvenile offenders and young people in moral danger. It seems a simple matter, however, to give information on these particular questions to a magistrate who has other responsibilities and to prepare him for his task by appropriate means, the flexibility of the legislation allowing him to leave aside all juridical duties and devote himself to the social action in accordance with the information provided. Good results have been obtained by securing the co-operation of the personnel concerned in the social and rehabilitation services, to advise the magistrate at the time he is preparing his decision; he is solely responsible for the final decision, however. In countries where there is a scarcity of social workers and assistants, the judge may also obtain the collaboration of volunteers, in which case he co-ordinates and directs their activities.

The intervention of the judge, who is responsible for the defence of individual freedom and public order, thus seems to be a favourable factor in social action, information on social problems being provided to him in cases where he is not already in possession of the necessary data. The task of supplying this information or training could conveniently be assumed by the large international organizations if the countries concerned feel that it is necessary to raise the investigation of the problem to such a level.