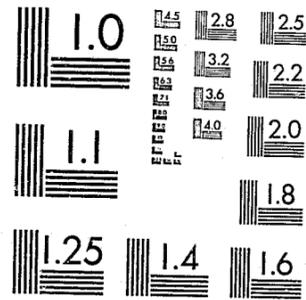


National Criminal Justice Reference Service



This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.

National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

JAN. 3, 1984

81396

CR sent
5-5-82

SEP 16 1981

Herman Mannheim has pointed out that the study of criminal behaviour can assume three basic forms. First, there is the descriptive approach which he ventures to call the phenomenology or ~~symptomatology~~ **ACQUISITIONS** of crime making criminology an idiographic discipline studying facts and the relationships between them. Then there is what he calls the causative approach which we, following the same nosological stance that Mannheim has adopted, might call the etiology of crime which tends to make criminology a nomothetic discipline seeking universally applicable laws and trends. Finally there is the normative approach where the criminologist seeks to assume the role of the philosopher king to tell the rest of the world what is desirable. ¹ The first approach reveals what is. The second, baring the mechanism involved in what is, reveals what could be. The third, as a deduction from the other two or entirely divorced from them tells us what ought to be. That there should be these approaches is not surprising. The wish to control any phenomenon must be associated with the knowledge of what the phenomenon is and the knowledge of the mechanism that makes the phenomenon express itself in the way it does. From these two we must deduce, if the control is to be scientific, the manner in which the phenomenon could be altered to its desired proportions.

The control of crime in developing countries is a topic that could be approached in these three ways. First, one could adopt a descriptive approach wherein the methods of control that are being used in different developing countries are described in detail. This is the approach that much of what is called comparative criminology has adopted. What is in different parts of the developing world is meticulously described and frequently similarities and dissimilarities are very carefully pointed out. Then one could adopt the causative

~~THE CONTROL OF CRIME IN DEVELOPING COUNTRIES.~~

by

C. H. S. JAYEWARDENE

Professor

Department of Criminology

University of Ottawa.

U.S. Department of Justice 81396
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Dr. C.H.S. Jayewardene
Univ. of Ottawa (Canada)

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

81396

approach paying attention to the peculiarities of development that force the adoption of a particular method of control, linking, in the process, the one with the other to reveal universally applicable laws. Comparative criminology has also adopted this approach and has apparently made some headway in this direction. The third approach that could be adopted is the normative one where what ought to be done is carefully analysed. This, however, has been an area that has been totally neglected. There has been an assumption that the goals and means of control adopted in the developed countries should be adopted in the developing countries as well, and this, in spite of the fact that, with all their sophistication, the techniques adopted to control crime in the developed countries have not been successful.

The unquestioning acceptance of the occidental orientation has been mainly due to the fact that the developing countries have been the colonies of the developed, have, for a long period of time, had their power bases accepting the ways of the rulers not only as superior but also as worthy of emulation. Following the liberation of these developing countries and the better implementation of the occidental orientation in them especially of the democratic form of government and the liberalisation of education, there has been a shift in the power base, with the power slowly passing into the hands of a more indigenously oriented segment of the population which has subjected the occidental orientation to critical analysis. The result has been the questioning of the propriety of the acceptance of the occidental values and attitudes and of the occidental goals and means. In the context of the international situation such acceptance spells the country's perpetual relegation to a place of inferiority and in the context of the domestic situation it calls for the total extinction of its cultural heritage. Following this revelation we find more and

more countries stressing the necessity of adhering to the norms of the indigenous culture and as far as the criminal justice system is concerned, changing, if not the acts that are outlawed, the procedure of adjudication and the societal reaction to the violation of laws. Thus, in countries such as Egypt and Pakistan, the extant anglo-saxon system, the legacy of colonialism, is being replaced by an Islamic system to make criminal justice more consonant with the peculiar genius of the people.² Other African and Asian countries, not in the sphere of Islamic influence, have also followed this course of action, reverting to a traditional system of criminal justice or attempting to develop a new one. This trend, however, has not been universally acclaimed. A number of important questions about the propriety of the change have been raised, the most important of which deals with the propriety of applying principles developed for application in one stage of human development to life in a time that is entirely different.

This paper deals with the control of crime in developing countries. The subject matter is not approached from a descriptive point of view. No account of what goes on in developing countries will be given. It is not approached from the normative point of view considered in its traditional sense. No attempt is being made to provide a dogmatic statement as to what a developing country should do to stem the rising tide of crime, if such be the case. The subject matter could be thought to be approached from a causative point of view. This paper considers the concepts of crime and crime control developed in occidental countries and analyses their relevance for application to developing countries. If the onslaught on the moves towards an indigenous system of criminal justice has as its main anchor the propriety of resurrecting a dead past, this paper looks at another aspect of this anchor and seeks to determine how an extant criminal justice system could be made consonant with a

living present.

The societal reaction to crime, the manner in which societies have tried to control crime, have varied from time to time and these variations have been enumerated in a number of ways.³ Whatever these may be, it is perhaps reasonable to contend that the methods have revolved around four key concepts. There is first the concept of incapacitation. Basically this concept seeks to deny an offender the opportunity of committing crime by depriving him of some prerequisite for the act. The commonest form that incapacitation has taken is annihilation either in the form of death or in the form of expulsion from society and exposure to natural dangers so as to deny him access to possible victims. Removal from society through incarceration is also considered at the present time to operate through its incapacitative potential. Another form that incapacitation has taken is the amputation of a hand, which, because of its seeming brutality, has been categorised as torture and mutilation. Here the offender is not only deprived of a part of his anatomy essential for the commission of the crime but also given a permanent mark which warns others of possible repercussions of interaction with that individual. The philosophical underpinnings of a system utilising this concept of control look upon the offender as essentially a bad individual, some one definitely different from the rest. He may perhaps be one who cannot, because of his very nature, help doing what he does. But he is certainly one who should be prevented from doing society any harm by denying him the situational configuration necessary for the commission of the harmful act.

A second concept that has been utilised is that of deterrence. This concept seeks to prevent individuals committing crime by the threat of punishment. For the concept to be operative, it is

essential that the offences should be specified together with the punishments that would be inflicted for the commission of those acts well ahead of time. It is also essential that the threatened punishments be such that the pain resulting from their infliction would be greater by far than the pleasure that may be derived from the act. As an empty threat would be impotent, a third essential is that the threat be actualised in the case of offenders, first to give credibility to the threat and second to permit those whom the threat did not deter to realise and recognise the intensity and the immensity of the deprivation vis-a-vis the benefit accruing from the act.

The use of this concept in crime control views the offender not as a totally bad individual but more or less as a normal one. The manner in which normal people normally behaved has been assumed to be the resultant of the consideration of the rewards and deprivations consequent to the act in a conscious or unconscious cost benefit analysis where the decision to act is made on the basis of some sort of mini-max rule that pushed towards the maximization of rewards and the minimization of deprivations. Crime control, it was consequently assumed, could be achieved by the manipulation of this psychological mechanism through the threat of severe punishments. This concept does not call for the incapacitation of the offender, though the concrete forms that were devised to operationalise the abstract concept, such as death, banishment, torture and mutilation and even imprisonment did have an incapacitative effect.

The third concept that found its way into society's efforts to control crime has been reformation and rehabilitation. With this concept the criminal moves out of the realm of the normal into a

special category, not of bad people "whose hand like the Ishmaelites was against all society", but of unfortunate or deficient people who because of some prior defect in the socialisation and training processes have been deprived of some equipment essential for leading a crime free life. Thus, the offenders attitudes and values were not desirable, his formal education was faulty, or he lacked the training necessary for eking out an existence in a legitimate fashion. These poor individuals had to be helped and it was only through the helping process that their criminal careers could be arrested. The concrete forms into which the concept was translated, however, are not very different from the concrete forms into which the other two concepts were translated. The concrete forms, however, were given new and fancy names and a new rationale. Not only this, there has been an overt effort made to link rehabilitation and reformation with deterrence and incapacitation. The greater the individual is away from society in terms of values and attitudes, of skills and aptitudes and of any other conceivable determinants of behaviour, the story goes, the greater would be his need for rehabilitation and reformation and the greater would be the need for efforts to protect society from him.

The concept of rehabilitation and reformation admits no efforts to prevent non-offenders from committing their first crime, as was the case with the concept of deterrence. There is here an implicit assumption that the individual who has not committed a crime is a wholesome individual and consequently an individual who would commit no crime and needs no special efforts to keep him on the straight and narrow. The unwholesome nature of the individual is revealed by the commission of a crime. The attempt of systems using this concept is to convert the unwholesome individual - the criminal - into a

wholesome one - the normal citizen - and return him into society to operate there as one of its productive and useful members. The concept makes no assumption regarding the cause of the unwholesome nature of the offender. It leaves this task to the rehabilitator or reformer to figure out. In the process, of course, it admits the possibility that the defect may be so great that rehabilitation and reformation may be neither possible nor feasible.

The fourth concept that has come to be used in recent years is that of reintegration. This concept identifies the cause of the defect in the offender as alienation. Because of the nature of the social interaction that the individual has had upto the time of the commission of his crime, he has been alienated from society so that he feels no compunction not to harm any of its members. The social reaction to his behaviour, in the activation of the criminal justice system, it is assumed, aggravates the alienation and pushes the individual further away from society. This concept seeks to avoid the dysfunctional effects of processing through the criminal justice system and get the offender involved in community activity that would diminish his alienation and accomplish his reintegration into society. No matter what the conceptual situation may be, the factual situation is that there is a processing, not much different from that of the criminal justice system, involved and. to ensure the offender's continued voluntary participation in the reintegration process there is a heavy reliance on the concept of deterrence.

There are two other concepts that have become the anchor of methods of crime control but they have not been listed as key concepts because the methods developed have achieved the status of subsidiary means rather than that of main means. The first of these

concepts is that of a separate or sheltered society. Developed specially to deal with offenders violating laws controlling the consumption of alcohol and the abuse of drugs, this concept looks upon the offender as an individual who is different from the rest of society in that he is afflicted with a handicap that cannot be rectified. This handicap does not permit him to function adequately under the pulls and pushes of normal society. The task at hand then becomes the provision of a social atmosphere in which this handicapped individual could effectively operate. This technique of crime control has incorporated in it a demand that the individual acknowledge his handicap and that he conforms to a set of strict rules under the threat of severe punishment although the concept itself does not call for such incorporation. The sheltered community, it should perhaps be pointed out, not only protects the individual from the stresses of larger society, it also removes the offender from larger society and protects it from him. It consequently involves the concept of incapacitation as well.

The second of these concepts is environmental engineering which considers the configuration of social conditions which enabled the offender to commit his crime and seeks to alter this configuration so that he would not be able to commit it. The configurational conditions are not those factors which apparently committed the individual to a life of crime but those that permitted him to commit that specific act. An old concept which got itself translated into action in the form of legislative activity such as the control of guns and weapons to prevent offences involving bodily harm to the individual, it has been revived and resurrected in the form of proactive police action designed to prevent crime such as neighbourhood watch, operation identification and the like. These methods, however, are not accorded the full status

of methods of crime control but are resorted to by conscientious police forces. They help the police to maintain a good image in the community and convey the impression that they really do care.

With the exception of environmental engineering, all the concepts involved in the control of crime seek some how or other to control the individual. Again, with the exception of environmental engineering, none of them seek to alter the social setting in which the offender lives and operates. Even environmental engineering seeks to do so only to a minimal extent. It engages in activity termed target hardening designed to make it more difficult for the offender to commit his act but it does not seek to alter those conditions that may have been responsible for his inclination to act as a criminal. That this should be the situation is really not surprising. What social conditions produced his criminality are not known. More importantly, however, is the fact that even in the country that crime is supposed to be most rampant, it is only a small minority that are engaged in criminal activity. Under these circumstances, it would appear ridiculous if an attempt was made to alter those social conditions which provided a social atmosphere for the majority of the people to lead a crime - free and peaceful life. The thrust of crime control, consequently, should be on the individuals who commit crime.

All the methods of crime control developed around these concepts have been singularly ineffective in the control of crime. Incapacitation, rehabilitation and reformation, reintegration, and the sheltered community address themselves to the problem only after a crime has been committed. Methods developed from these concepts, consequently, are, by definition, ineffective to prevent the commission of crime in

the first instance. If these methods were perfectly effective, they could only prevent recidivism. Deterrence addresses itself to the problem both before and after the commission of the first crime so that, at least theoretically, it offers hopes of an ability to control the phenomenon more completely. So does environmental engineering. However, the fact that the incidence of crime has shown an almost relentless increase over time indicates that, whatever the theoretical possibilities may be, the factual situation is one of impotence. Analysis of the problem reveals that the failure of these methods is due to the fact that we have really used only one inefficient method throughout all time - that of attempting to control human behaviour by the infliction of some form of deprivation. This basic technique has, with growing intellectual sophistication, been made to appear new of a number of occasions. When a change in strategy was deemed desirable, a new interpretation and a new rationale was given to what was being done. The act remained dramatically the same.

Failure of a technique to achieve its goal can either stem from the inefficient application of appropriate means or from the inappropriateness of the means for the performance of the task at hand. In the case of crime control it appears that both mechanisms may be making their contributions. In criminological circles there has been much soul searching, so to speak. The rationale for the methods of crime control have been repeatedly examined for their theoretical feasibility and so have the conditions necessary for success. It has been found that the methods of crime control have always focused on the individual and have sought to achieve the goal of crime control through the control of the behaviour of the individual. It has also been found that in the development of the means for the achievement of these goals,

there has been a constant reliance on one basic assumption regarding the nature of man - that he is essentially a pain avoiding individual whose behaviour is fashioned, consciously or unconsciously, through psychological or physiological mechanisms, by this one overwhelming concern. Even though there has been a general acknowledgement of the failure of our methods of crime control, the philosophical underpinnings of the system, the basic assumptions on which the superstructure has been built, remained unassailed.

Examination of the law has compelled some to contend that the attempt to control the behaviour of the individual is not the outcome of implementation, the result of the attempts to devise means of enforcement: it is the aim and intention of enactment as well.⁴ The reasoning that has led to this conclusion is that the law is designed to protect the interests of a small coterie of powerful people - those people, who by some means or other, have acquired the political power of a country and can impose their will on the others. These people, because of their position of power, are able to have those forms of behaviour which would impinge on their rights and abnegate their interests, outlawed and punished. Incorporation of the action - attitude linkage into this interpretation would see the law designed not only to protect the interest of the small coterie of the powerful but also to inculcate the values that they cherish into all people, destroying in the process, of course, the values of the others, producing a sort of mechanical solidarity in which all people were alike. This view of legislation sees moral entrepreneurs seeking the preservation of a particular type of people.

With the basic idea of the law promoting social solidarity unchanged, but with social solidarity looked upon as an organic one

dependent on the reciprocity of interpersonal relations, others have claimed that the law is designed to extract " payment for services " from groups of people whom changing social conditions prevent from fulfilling their reciprocal obligations. ⁵ The laws may be protecting the interests of a group, but this, it does not by the positive approach of demanding conformation to certain values but by the negative one of banning conformation to others, not by promoting the behaviour engaged in by one group but by circumscribing the behaviour engaged in by another. This interpretation of the law sees the interests of one group not only protected but also given opportunity for expansion. The circumscription of the behaviour of one group necessarily spells the expansion of behavioural possibilities for another. When there is an alteration of the extant reciprocal relationships, those elevated to the position of providers seek commensurate compensation from those relegated to the position of being provided for by circumscribing their sphere of activity. This view of legislation sees economic entrepreneurs seeking the promotion of a particular type of activity.

A third approach to a definition of the aims of the law has also been offered. ⁶ Drawing on the concept of social contract, the contention here is that the law is designed to protect the individual, to prevent social harm and to promote the establishment of those conditions necessary for people for the quiet enjoyment of their lives. According to this view the behaviour outlawed is what all and sundry agree is detrimental to their corporate living. It is the result of a conscious or unconscious attempt to resolve and reconcile differences. According to this interpretation, the prevention of harm to the individual is the main aim of the law and any attempt to control the behaviour of the individual is purely incidental, perhaps the ~~by~~ product of the enforcement process. This view of legislation sees social

entrepreneurs seeking the production of a particular type of social atmosphere.

Stressing that the control of the behaviour of the individual is really incidental is another viewpoint which claims that the law is addressed not to the actor in the criminal drama but to the spectator. This view claims that the law is really not necessary for the control of individuals but it is necessary to assuage the fears of onlookers who might feel that the deprivations may be inflicted on them as well. The law is thus, designed only to justify the infliction of deprivations on a selected group of people. ⁷ In this view there is no exclusion of the possibility that the infliction of the deprivations was for the preservation of a particular type of people, for the production of a particular type of social atmosphere or for the promotion of a particular type of activity. Neither is there an inclusion. Such possibilities are irrelevant. What is relevant is that the people accept the system that permits the infliction of such deprivations. This view of legislation sees political entrepreneurs seeking the protection of a particular type of social system.

If the aim of the law is the prevention of social harm, the methods that are being used to achieve this end have not only been not successful but also are incapable of being successful. Sometime ago, examining the various forms that criminal statistics take, Sellin pointed out that the further one goes from the incident in terms of criminal justice procedure, the surer we may be that a crime has been committed and that the individual accused was responsible for the crime, but the fewer the number of crimes become. ⁸ The law enforcement machinery is initially activated only in some cases. The disinclination on the part of the public to activate the machinery may

be due to a number of reasons but one pertinent reason is the perceived impotence of the system to do what it claims to be doing. In these cases there is a belief, implicit or explicit, that the social harm cannot be prevented: it must simply be endured. Once the criminal justice system is activated, we find that only a proportion of the cases known to the police are solved, only in a proportion of these cases are prosecutions launched and only in a proportion of these cases are convictions secured. Thus, there is a proportion of cases in which the processing is called to a halt at a point other than the final output. The halt, of course, is the result of the application of procedural rules directed towards the non-harassment of an innocent individual who may be erroneously identified as an offender. Nonetheless, it carries the implicit assumption that the harm the victim of the act suffers is not given primacy of concern. The inference is further underlined by the fact that the law makes society, in its totality, to vicariously assume the harm, ignores the individual victim and forces him to bear his loss in silence as if it were the natural concomitant of living in society.

The goal of crime control could be considered to be the infliction of deprivations on a particular group of people. That this is so, there seems to be some evidence. Analysis of the operation of the law enforcement mechanism indicates that stereotypic pictures of criminals play an important part in its operation. This must necessarily be so. The police, to proceed with their investigations, must have some idea of who the offender could be. The prosecutor, to obtain a conviction must have an idea of whom a jury would convict. The judge, to ensure that the sentence he pronounces would have the desired effect of non-recidivism must decide whether the man awaiting sentence is

likely to become an incorrigible criminal whose instant crime was an indication of his criminal nature or whether he was an honest and good citizen whose crime was the singular blemish on an otherwise exemplary life. All this calls for a preconceived notion of the criminal which could be used to judge the criminality of the alleged offender.

Analysis of the results of the operation of this mechanism indicates that offenders are not a random representation of society as would be expected if any one and every one could commit crime. They tend to come predominantly from one group or another. This empirical finding, of course, can be readily explained by the assumption that either because of their peculiar inheritance or because of the peculiar social situation, members of these groups are peculiarly prone to crime. Such an interpretation is feasible, however, only when it is assumed that the criminal statistics accurately reflect the criminal activity in society in terms of the commission of criminal acts. But that is not the case. Criminal statistics are the result of the societal reaction to crime - the operation of the criminal justice machinery.⁹ In this context, the over-representation of members of particular groups in the criminal population cannot possibly be attributed to their peculiar criminality. If such does exist, the over-representation must necessarily be, at the minimum, the resultant of the interaction of this peculiar criminality and the activity of the criminal justice system. The selection of the groups on whom the deprivations are inflicted may be made in a variety of ways and for a variety of reasons, justifiable and unjustifiable. Nonetheless, the infliction of deprivation on particular groups of people still remains the goal of the criminal justice system - if not is intended goal, its achieved one.

It is perhaps possible to view this situation as the result of the operational distortion of the original or ultimate goal of the criminal justice system - that of preventing social harm. If the means available for the achievement of this latter goal are considered, it will be realised that there exist two possible basic approaches. The one focuses on the offender and seeks to prevent him from committing and from repeating his criminal acts. This is the approach that has been adopted by the criminal justice system. The development of this approach involves first the correct identification of the offender, and then the correct identification of the mechanism that made him an offender. Both these lines of activity have been given considerable thought and the results have been the realisation of the possibility of inflicting pain and punishment on innocent people, the development of means to minimise such possibilities and the consequent unconscious restriction of the application of corrective measures to a small coterie of offenders. All this, of course, does make the ultimate goal of the criminal justice system appear the infliction of deprivation on a particular group of people. The real goal of the prevention of social harm gets lost sight of and pushed into oblivion.

The second approach focuses on the victim and seeks to prevent him from suffering loss in the first instance, to minimise the loss he suffers in the second and to restore him to his original state in the third. This is the approach that has been adopted to deal with disasters such as created by floods, earthquakes and the like. Such an approach has not been adopted by the criminal justice system but could. It could, perhaps, be looked upon as an alternative approach - the natural disaster approach. This approach would totally ignore the offender - the perpetrator of the act and divert all its energies to

the harm that the act produces: who produces the harm becoming an irrelevant question. The first line of action in this approach would constitute what is called environmental engineering - the creation of conditions that would make it more and more difficult for anyone to commit a crime. It would involve the identification of the circumstantial configurations associated with the commission of the crime and the manipulation of some or all of the factors involved to produce circumstantial configurations in which the offence could not be committed. The second line of action would also involve environmental engineering designed unlike in the first line not to prevent the act but to minimise the harm or loss if the act should occur. The third line of action would constitute restorative activity: restoring the loss that the victim has suffered. This line of activity would involve identification of the means by which such loss could be restored and the implementation of programs that have been developed with those means.

The natural disaster approach, of course, would involve a change in the functions that the different segments of the criminal justice system performs. Thus, the police would no longer be involved in investigating crime to ascertain who committed the offence and to accumulate sufficient evidence to enable an enthusiastic prosecutor to steer the case successfully through court. Instead they would be involved in investigating the crime to determine how it was committed so that they could prevent the recurrence of the event. The natural disaster approach has a distinct advantage over the extant criminal justice approach. It does not introduce or foster any divisive element in society such as introduced and fostered by the criminal justice identification of anti - social elements in society.

Apart from their economic characteristics, developing countries are characterised by a division of their people into groups that are not only distinct from each other but are also readily discernible as such. Most of these countries constitute parcels of land artificial brought together for administrative convenience at a bye gone age by a people who saw in the resulting diversity an important weapon they could effectively use to maintain themselves in power. The different parts of these countries are presently occupied predominantly by particular ethnic groups to give the different areas their peculiar characteristics but nonetheless containing members of other ethnic groups in sufficient numbers to abnegate their particularistic identification. In addition to this there exists the obvious effect of past colonization - the existence of a dual socio-economic system in which one group of people are oriented culturally towards the colonizers, engaging in what has been termed an export economy while the other group is oriented towards an indigenous past and engaging in what has been termed a consumption economy.¹⁰ Attempts to hold these groups together in an unified whole demands not the accentuation of differences but their elimination, not the addition of further divisive factors but the reduction of the ones that already exist.

In a rapidly changing pluralistic society characterised by racial, religious, ethnic and class diversity as well as by sharply competing economic and political interest groups and by conflicting life styles and value orientations the process of the enactment and of the enforcement of laws appears to have its roots in the interactional dynamics of the groups constituting that society.¹¹ The indications are that the process is the same in all societies though the role of the interactional dynamics of the groups become more blatant in the

pluralistic societies. Even if the mechanism was different, the appearance that personal differences play a dominant role in criminal justice is important in that it is what people believe to be rather than what really is that influences their behaviour. In the world of today where almost every one is acutely aware of human rights, selective, differential and discriminatory treatment in any sphere of activity engenders separatists movements culminating in guerilla terrorism, the modern substitute for civil war. When the selectivity, differentiation and discrimination involves the criminal justice system, the problem gets even more confounded.

In devising a system of crime control, it is of paramount importance that there be a clear concept of crime. That such is not the situation few people will doubt. The classical definition of crime as an act that causes harm to an individual, outlawed by the state and ensured confirmation through the threat of punishment does appear sufficiently clear. However, when the various acts that are outlawed are considered, it will be seen that crime is defined at a more abstract level in the Durkheimian terms of acts that tend to disrupt social solidarity. Thus we find outlawed not only the acts that would directly produce the harm that is sought to be prevented but a number of other acts that could conceivably produce the harm indirectly. In this category are, on the one hand, those acts that would provide a circumstantial configuration necessary for the performance of the act such as the possession of the requisite weapon, and, on the other hand, those acts that would provide the personality configuration such as the attitudinal armamentarium. In a colonized country, it is possible for law makers to justify any discriminatory or selective legal enactment and enforcement in terms of a theory of social evolution which calls for protection from the

underdeveloped native on the one hand and the guided development of the native on the other, dependent on a particularistic concept of the nature of man. Conceived as a sacred trust entrusted colonizers, the concept of developmental guidance has played a very dominant role in past legislation in America, in Africa, in Asia and in Australia, justifying special legislation for native people. Such a concept, unfortunately, is inoperative in a democratic country peddling the egalitarian ideal. Its persistence in the philosophical underpinnings of a legal system is an anachronism producing a distorted view of crime and an ineffective system of crime control.

The system of social control existing in most developing countries before the colonial introduction of a criminal justice system has been described in various ways. Most of these descriptions, however, have looked on these systems as ineffective mainly because the procedures did not meet international standards of fairness, the penalties were stigmatised as barbaric and the offences were found described in particularistic rather than universalistic terms. In terms of the ability of the systems to produce conforming behaviour, the systems appear to have been particularly effective and this has been attributed to the fact that the rules were respected not because they were laws laid down by political authority nor because they were traditions that overwhelmed the individual, although these are sometimes cited as reasons, but because they were the customs intimately intertwined with a vast living network of interrelations. Conforming behaviour was simply what the situation naturally demanded. Crime in this context was not an absolute abstraction but a relative congelation dependent on the actual circumstances in which it was committed and the actual harm that resulted rather than on the meaning of the circumstances in terms of an elusive concept of intent and of the harm in terms of an equally elusive

concept of peace and order, both of which were controlling concepts when the concept of crime was developing in an era of libertarian laissez faire.

At this stage it is perhaps pertinent for me to ask - Can a society, can a country, especially at a time when it has to view itself as a contemporary, internationally oriented nation rather than a small, universalistic, face to face society, operate without contributing to an universally accepted concept of crime. Perhaps they could. However, an important theoretical consideration here is the possibility that such a country, such a nation would revert to the bloody days of feudal warfare. The absence of a socially approved mechanism for the resolution of conflicts would force the people to improvise and rely heavily on the personal use of violence. Examples of vigilantism and of terrorism could perhaps be cited in support of such a contention even though such forms of activity develop not as a substitute but as a complement to an operative and seemingly efficient system merely because the machinery does not produce results that appear satisfactory or just to one group of people. The societal concept of crime is intimately interwoven with the societal concept of justice and with the various forms that this latter concept can take the answer to the question must necessarily rely on each society's own reasons for its corporate existence. The preservation of a particular type of people, the promotion of a particular type of activity, the production of a particular type of social atmosphere, the protection of a particular type of social structure, all call for their own forms of social control. But then, these are concerns that are seldom given consideration. The monistic thinking that man appears to be heir to makes him specially susceptible to the unquestioning acceptance of what is, with little or no regard to what could or what ought to be.

Ladies and gentlemen, it is customary to start a talk with a preamble in which the speaker explains how honoured he was to be invited to speak and how pleased he was to accept that invitation. Such preambles have become so common place that they fail to convey the sincerity of the speaker. The invitation to me to deliver this lecture first came in August 1977. Sickness prevented me from accepting it that year. The invitation was renewed the next year and in that year the postal authorities of India, of Canada and of Sri Lanka, all conspired to see that there was sufficient delay in communication to render my acceptance of the invitation invalid. The third renewal of the invitation was made the next year and I am here today in acceptance of this third invitation. The persistence with which I have been hounded, so to speak, does convey a message regarding your desire to hear me speak and when this persistence has occurred in the full knowledge of the speaking handicap I suffer from, the message becomes even louder and clearer. If I were not to admit that I did feel honoured and flattered, I would have to claim that I was less than human. I desisted from expressing these sentiments in the traditional manner because, when I uttered them I wanted them to ring with the sincerity with which they were made. I must say that I am happy I did not start this lecture in the traditional manner for yet another reason. The attention with which you have listened to me speak has accentuated the initial honour of the invitation and has made me doubly happy that I accepted it.

The lecture that I have been invited to deliver is not an ordinary one. It is a special one - the Kumarappa - Reckless lecture. Tradition also demands that one start such a lecture with a brief reference to the men after whom the lecture is named. The traditional manner in which the reference is made is to extol their

achievements. Mr Kumarappa, I never had the good fortune to know but Dr Reckless, I have been closely associated with. That both made a sizeable contribution to the development of criminology in India is an accepted fact and it is perhaps a fitting tribute to their endeavours that this lecture should be named after them. A memorial, whatever form it takes, is considered to be not only an acknowledgement of what has been done but also to act as a stimulus for others to follow in their footsteps. In this connection, without detracting one iota from the contribution of these two men, I feel constrained to point out that we would not be here today had it not been for the work of Professor Panakal. The torch that these two gentlemen lit, he has faithfully carried forward, not in blind adulation but with an admiration which ensured its continued growth and development not its fossilization as usually occurs. The linkage of the names Kumarappa and Reckless, I believe, epitomises what the Department of Criminology and Correctional Administration seeks to achieve - the marriage between theory and practice. This gives me immense pleasure because it is the ideal of the department of criminology to which I myself am attached.

There is a general belief that, as the priority of developing countries is economic development, much effort should not, need not and cannot be exerted on criminological aspects. Part of this belief stems from the economic orientation forcing developing countries to look upon their population as a liability rather than an asset, as a hindrance rather than an adjunct to development. The economic orientation forces us to forget that economic development is not a goal in itself: it is only the means to the achievement of a more basic goal - the welfare of the people. Towards the achievement of this goal, criminology, especially in its applied form, can make a

contribution. Applied criminology may be considered the application of scientifically accumulated knowledge for the establishment of peace and order. If the peace and order is seen as the means to the achievement of another goal, applied criminology would involve the application of the knowledge in a manner dictated by the social context to promote the welfare of the people. In these terms we could perhaps define a criminologist as an individual whose endeavours are directed to the alleviation of human suffering caused by criminality, be that suffering the social disorder that the public must endure, the physical pain and financial loss that the individual victim must endure, the general reprobation that the law enforcement officers must endure, or the socially inflicted deprivations that the offenders must endure. If the names of Kumarappa and Reckless are to be, in the future, anything more than a title for an annual lecture, it behoves every one of you, who are connected with this school of criminology, to carry forward the torch that the two have lit in such a manner as to ensure that no one, in this country at least, no matter what his role in the drama of crime may be, is reduced, through the condemnation to endure suffering inflicted by criminality, to the status of a "mass of animated dust", whose fate becomes a matter of relative unimportance.

References.

1. H. Mannheim [1965] Comparative Criminology [Boston: Houghton Mifflin Company.]
2. C.H.S.Jayewardene [1977] Alignment with Islamic Tradition: Penal Changes in Moslem Countries. Crime and Justice. 5., 160-161.
3. E.H.Sutherland and D.R.Cressey [1970] Criminology. [Philadelphia: J.P.Lippincott.]
4. R.Quinney [1970] The Social Reality of Crime [Boston: Little Brown.]
5. C.H.S.Jayewardene and H.Jayewardene [1979] Criminalization as a Boundary Definition for the Rejection of Redundant Social Groups. Paper. Workshop on Research. University of Ottawa. February.
6. R.Pound [1942] Social Control through Law. [New Haven: Yale University Press.]
7. Y.Dandurand [1979] Le Processus de Criminalisation. [In preparation]
8. T.Sellin [1951] The Significance of Records of Crime. Law Quarterly Review. 67., 489-504.
9. A.Oesthek [1974] The Utilization of Official Crime Data. M.A.Thesis Carleton University.
10. M.Nash [1964] Social Prerequisites to Economic Growth in Latin America and South East Asia. Economic Development and Culture Change 12., 225-242.
11. S.L.Hills [1971] Crime, Power and Morality: The Criminal Law Process in the United States. [Scranton: Chandler.]

END