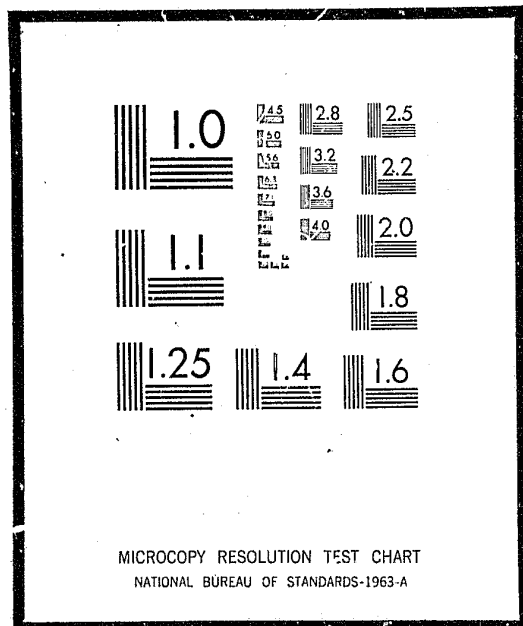


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INTERNATIONAL PENAL AND PENITENTIARY FOUNDATION

Deviance and Social Reaction

Proceedings of the Third International Colloquium of the I.P.P.F.
Vienna - 5/9 June 1972

Third International Colloquium - Vienna 1972 - I.P.P.F. Publications No 19

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INTERNATIONAL PENAL AND PENITENTIARY FOUNDATION

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and
Social Reaction

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Programme

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Agenda

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List of Participants

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Programme

The work of the colloquium which took place in the building of the Federal Ministry of Justice in Vienna, was concerned with « deviance and social reaction ».

The subject was chosen because it is currently the central concern in the struggle against the new forms of delinquency and abnormal behaviour. It permits a critical examination of present-day attitudes and methods with a view to suggesting effective solutions as regards the prevention and treatment of forms of deviance which are antisocial in character.

The work was divided into plenary sessions and section-meetings. Two press conferences were given.

The first section, under the chairmanship of Professor Marc ANCEL, honorary president of the Supreme Court of France, dealt with the social and legal aspects of the subject under study.

The second section, which was presided over by Professor S. Inkeri ANTTILA of the University of Helsinki, examined problems of prevention and treatment.

Agenda

Monday, 5th June 1972: Opening Session.

- 10 a.m. — Address of welcome by Mr. J. DUPRÉEL, President of the I.P.P.F. and Chairman of the Colloquium.
- Speech by Mr. Chr. BRODA, Federal Minister of Justice of Austria.
- Speech of thanks by the President of the I.P.P.F.
- 10.30 a.m. — Break — Press Conference.
- 11.00 a.m.—11.45 a.m. — Introduction to the work by the general rapporteur, Mr. P. ALLEWIJN, Secretary-General of the I.P.P.F.
- Organization of work in the sections.
- Miscellaneous communications.
- 3.00 p.m.—6.00 p.m. — Work in both sections:
I. Sociological and juridical aspects;
II. Prevention.

Tuesday, 6th June:

- 9.30 a.m.—12.00 a.m. — Work in the sections.
- 2.30 p.m.—5.30 p.m. — Work in the sections.
- 7.30 p.m. — Departure from the City Hall (Lichtenfelsgasse) by autobus for dinner in the restaurant in the Donaupark offered by Mr. F. SLAVIK, Burgomaster of Vienna.

Wednesday, 7th June:

- 9.30 a.m.—12.00 a.m. — Plenary session.
- 4.00 p.m. — Town Excursion, Donaupark, Höhenstrasse, Grinzing.
- 7.00 p.m. — « Heurigenabend » in Grinzing as guests of the Federal Minister of Justice.
- 10.30 p.m. — Return to Vienna.

Thursday, 8th June:

- Excursionday.
- 9.00 a.m. — Departure for Gerasdorf.
- 10.15 to 12.00 a.m. — Visit of the special institution for youth of Gerasdorf.
- 12.00 a.m. to 14.30 p.m. — Lunch in the inn « Zur Grenze » in Pötsching/Burgenland.
- 3.00 to 4.00 p.m. — Visit of the lawcourt and prison of Eisenstadt.
- 4.00 p.m. — Departure to the Neusiedlersee, boattrip.
- 6.30 p.m. — Dinner offered by Mr. Th. KERY (Landeshauptmann of Burgenland) at Purbach a/Spitz.
- 10.00 p.m. — Return to Vienna.

Friday, 9th June:

- 10.00 to 12.00 a.m. — Work in the sections.
- 3.30 to 5.30 p.m. — Plenary closing meeting.
Presentation of conclusions by the general rapporteur.
- 7.30 p.m. — Banquet (offered by the I.P.P.F. at the Rathauskeller).

List of Participants

Patrons of the Colloquium

The Secretary General of the United Nations.
The Secretary General of the Council of Europe.
Dr. Chr. BRODA, Federal Minister of Justice.
Mr. F. SLAVIK, Burgomaster of the City of Vienna.

Organizations associated with the Colloquium

International Association of Penal Law.
International Society of Criminology.
International Society of Social Defence.
National Centre for the Prevention of Crime and the Defence of Society.
United Nations Social Defence Research Institute.
International Prisoners Aid Association.

Executive Committee of the Colloquium

Chairman: Prof. Jean DUPRÉEL, President of the I.P.P.F.
First Vice-chairman: Prof. Roland GRASSBERGER, University of Vienna.
Vice-chairman: Prof. S. Inkeri ANTTILA, Vice-President of the I.P.P.F., Chairman of Section 2.
Mr. Alfons WAHL, Vice-President of the I.P.P.F.
Members: Prof. Marc ANCEL, Chairman of Section 1.

Mr. Pier ALLEWIJN, general rapporteur, I.P.P.F. Secretary-General.

Prof. François CLERC, I.P.P.F. Treasurer.

Dr. Wolfgang DOLEISCH, Chairman of the Organizing Committee.

Organizing Committee

Dr. Wolfgang DOLEISCH, Ministerialrat, chairman.
Dr. Otto WILFERT, psychologist of the Juvenile Appeal Court in Vienna.
Dr. Manfred BURGSTHALER, Penal Law lecturer at the Vienna University.

Experts

Professor Kurt PAWLİK, Professor of Psychology at the University of HAMBURG, Institute of Psychology. Germany.
Mr. Jacques VERIN, Judge, Head of the research coördination service of the Ministry of Justice, PARIS. France.
Mrs. C. I. DESSAUR, Professor of Criminology, Director of the Institute of Criminology, University of NIJMEGEN—The Netherlands.

Government delegates

ARGENTINE

Messrs. Juan Carlos GARCIA BASALO,

General Inspector (R) of Federal Penal Institutions,
BUENOS AIRES.

Benito VIQUEIRA CASAL,

Principal Governor of Penitentiary Institutions, Supervisor
of the Classification Institute of Federal Penal Service,
BUENOS AIRES.

AUSTRIA

dr. Wolfgang DOLEISCH,

Ministerialrat,
Federal Ministry of Justice,
VIENNA.

BELGIUM

Messrs. Jean DUPRÉEL,

Secretary-General of the Ministry of Justice,
Professor at the University of Brussels,
President of the I.P.P.F.,
BRUSSELS.

Paul CORNIL,

Honorary Secretary-General of the Ministry of Justice,
Professor at the Brussels Universities,
BRUSSELS.

DENMARK

Messrs. Knud WAABEN,

Penal Law Professor at the University of Copenhagen,
COPENHAGEN.

J. HEILBO,

Governor of the Copenhagen Prisons,
COPENHAGEN.

LUXEMBOURG

Mr. Alphonse SPIELMANN,

Attorney-General, First Substitute of the « Procureur
d'Etat », for the general direction of penitentiary institutions,
LUXEMBOURG.

FEDERAL GERMAN REPUBLIC

Messrs. Alfons WAHL,

Public Prosecutor — Federal Court of Justice,
KARLSRUHE.

Klaus TIEDEMANN,

Professor at the Law Faculty of the University of Giessen-
Hessen,
GIESSEN.

NORWAY

Messrs. Helge RØSTAD,

Director-general of the penitentiary administration,
OSLO.

Sverre BJORNSEN,

Director of the Prison of Ullersmo,
KLOFTA.

B. HOV,

Director of the « Sirkingsanstalt »,
OSLO.

THE NETHERLANDS

Messrs. PIER ALLEWIJN,

Head of the Prison Administration,
THE HAGUE.

Anton HERSTEL,

Adjoint Public-Prosecutor, Attaché at the Ministry of Justice,
UTRECHT.

FINLAND

Mrs. S. Inkeri ANTTILA,

Professor at the University of Helsinki,
HELSINKI.

Mr. K. LANG,

Counsellor of State, Director-General of the Prison
Administration,
HELSINKI.

ITALY

Messrs. Guisepe di GENNARO,

Appeal Court Judge, Director of the Study and Research
Division of the Prison Administration,
ROMA.

Marcello BUONAMANO,

General inspector of the Prison Administration,
ROMA.

FRANCE

Mr. Marc ANCEL,

Honorary President of the Supreme Court,
PARIS.

JAPAN

Messrs. Kyoza USUI

Director of the Rehabilitation Bureau of the Ministry of
Justice, Attorney-general,
TOKYO.

Yasuharu FUJINAGA,

First Secretary of the Japanese Embassy,
VIENNA.

PORTUGAL

Mr. José GUARDADO LOPES,

Director-General of the Prison Administration,
LISBON.

UNITED KINGDOM

Messrs. William R. COX,

Director-General of the Prison Service for England and Wales,
LONDON.

Arthur J. E. BRENNAN,

Assistant Under-Secretary of State in charge of the Criminal
Department at the Home Office,
LONDON.

UNION OF SOUTH AFRICA

Messrs. Johannes Cornelius STEYN,

Commissioner of Prisons,
PRETORIA.

F. A. H. VISSER,

Assistant Commissioner of Prisons,
PRETORIA.

SWITZERLAND

Messrs. Vital SCHWANDER,

Professor at the University of Fribourg,
FRIBOURG.

George FELDER,

Secretary of the Department of Justice of the Canton Bâle,
BÂLE - Ville.

SPAIN

Mr. Joaquin Rodriguez SUAREZ,

Member of the « Corps Spécial » of Prison Institutions,
Secretary of the General Penitentiary Council,
MADRID.

Delegates of international and scientific Organizations

United Nations:

Mr. William CLIFFORD,
Chief of the Social Defense Programmes,
NEW YORK.

Council of Europe:

Mr. Ekkehart MULLER-RAPPARD,
Principal Administrative Officer, Division of Crime,
Directorate of Legal Affairs,
STRASBOURG.

International Penal and Penitentiary Foundation:

Prof. Roland GRASSBFRGER, University of VIENNA (Austria);

Prof. François CLERC, I.P.P.F. Treasurer (Switzerland);

Mr. Juan de ZAVALA Y CASTELLA, Director-General of the
Penitentiary institutions (Spain).

Corresponding members:

Mr. Charalambos TRIANTAPHYLLIDES, Honorary Director
General of the Ministry of Justice, ATHENS;

Mr. John LI. EDWARDS, Director of the center of criminology
in TORONTO;

Mr. Israel DRAPKIN, Director of the Institute of criminology
in JERUSALEM.

International association of Penal Law:

Mr. P. BOUZAT, President, Law Faculty, RENNES
(France).

International Society of Criminology:

Mr. Roland GRASSBERGER, Professor at the Vienna Uni-
versity VIENNA.

International Society of Criminology:

Miss Yvonne MARX, Adjoint Director of the Crime Division of
the Institute of Comparative Law,
PARIS.

Mr. Adolfo BERIA DI ARGENTINE, Secretary-General of the
I.S.S.D.,
MILANO.

Mr. Giuseppe DI GENNARO, Director of the Study and Re-
search Division of the Prison Administration,
ROMA.

National Centre for the Prevention of Crime and the Defence of Society:

Mr. Pietro NUVOLONE, Professor of Penal Law,
ROMA.

Mr. Girolamo TARTAGLIONE, Secretary of the Criminological
section, Supreme Court Counsellor,
ROMA.

Mr. Franco DI GIROLAMO, member of the Criminological
Section, Director of the Observation Center of the Roma-
Rebibbia Institute,
MILANO.

United Nations Social Defense Research Institute:

Mr. Franco FERRACUTI, Project Director,
ROMA.

International Prisoners Aid Association:

Mrs. Doris WHITNEY, Executive Director of the Washington
Half-Way Home for Women,
WASHINGTON.

Mr. Herbert HILL, First « Staatsanwalt », Vice-President of
the German Probation Service,
COLOGNE.

Secretariat:

Mrs. A. BINON, F.I.P.P. General Secretariat of the Ministry of
Justice,
BRUSSELS.

Mr. E. J. BESIER, Legal Officer at the Prison Administration,
THE HAGUE.

Mr. O. PESCHKE, Justizwachmajor, Secretariat of the Organ-
izing Committee,
VIENNA.

Opening Session

5th June 1972



Federal Ministry of Justice.

Address of Welcome by Prof. J. Dupréel, Chairman of the Colloquium

Mr. Minister, Ladies and Gentlemen, Dear Colleagues,

It is my privilege and very great pleasure, as President of the International Penal and Penitentiary Foundation, to welcome you to this opening session of the Third International Colloquium organized by our Foundation.

First of all, Mr. Minister, may I say what a great honour you have done us by your presence at this opening session and by your acceptance of our invitation to address the meeting.

Our Foundation wishes to express its gratitude for your patronage and the active support which you have given to our work.

We are also grateful to the Austrian authorities for having received us in their beautiful country and wonderful capital. We shall be expressing our gratitude for their valued assistance and our pleasure at their hospitality to each of them in turn at the various events which have been arranged during this Colloquium.

My sincerest gratitude also goes to the Secretary-General of the United Nations and the Secretary-General of the Council of Europe.

As in Brussels in 1962 and in Ulm in 1967, our work here in Vienna in 1972 has been supported by their exalted patronage and by their sending of distinguished representatives.

It is my pleasure to welcome those representatives, Mr. CLIFFORD of the United Nations and Mr. MULLER-RAPPARD of the Council of Europe.

To you, too, the Delegates of the great organizations which, along with and in cooperation with the Foundation, are also working to discover better solutions to the problems caused by deviance and delinquency, I should like to say how happy we are to have you here with us today.

And you, Ladies and Gentlemen, Government Delegates, Experts, Members of the Foundation, my dear Colleagues, I greet you as participants whose knowledge and experience will stimulate our discussions.

Your collaboration is what gives this meeting its great interest and its value is inestimable. We are most grateful to you for having responded to our invitation.

Mr. Minister, may I now call upon Your Excellency to be so kind as to deliver the opening speech of the present Colloquium.



Federal Minister of Justice Dr. Christian Broda.

Speech by Mr. Broda, the Federal Minister of Justice of Austria:

Mr. President, Ladies and Gentlemen,

The numerous changes taking place in recent times cause us easily to forget the great and important changes. One such change concerns the attitude of the agents of justice towards deviant behaviour. When I speak of agents of justice I include those who make the law, those who apply the law as judges and public prosecutors, and those who execute the law. For a long time the attitude of all these people towards deviant behaviour went unchallenged. The sociological reasons for this attitude are known, they need not be discussed here. At all events the result was an attitude which was equated with morality itself. At least I have to admit it seemed to be so. And such was the general opinion. That is to say there was unanimity as to the content of moral standards on the part of those who made the law and those who had to ensure the observance of the law. Outsiders had no say at all. Penal law was seen as the highest of moral bulwarks. Reforms of penal law were like exercises in fortress architecture, which did not change the substance of the bulwarks. A knowledge of deviant behaviour was important to the penal system only in as much as it meant a better understanding of such behaviour so that more efficient measures could be taken against it.

Even if we had sketched the past less explicitly than I for simplicity's sake have done, we should have to recognize the changes which I pointed out at the beginning of my speech. Opinions at one time absolutely unquestioned have become open to doubt. The extent of what is considered the moral sphere has become much smaller.

To what extent the provisions of civil and penal law still fall within this moral sphere is the subject of lively discussion. Above all, questions of the reform of penal law are no longer questions of fortress architecture. The idea of bulwarks is no longer central. The delinquent, his victim and society have become the focus of common interest.

Therefore, justice needs the sciences relating to deviant behaviour to a much greater extent than ever before. We are not overlooking the fact, however, that the changes mentioned above also question these sciences.

The desire for more freedom is certainly at the bottom of legal reforms at the present time. Although since World War II, the basic economic needs have not been entirely satisfied, they have been met to a greater extent than ever before. This situation has made people resent all the more any limitation of their freedom, for instance by the prohibitions and sanctions of our penal law. Technically it is easy to « de-criminalise ». But very often one cannot predict what kind of freedom

may result from this decriminalisation. It may be that the social control exercised by society or within society tolerates behaviour freed from penal sanctions, but it could also happen that such behaviour is disapproved of.

The favouring of repression, just as the exploitation of tolerance, can cause reactions of insecurity. I do not think that there are good grounds for Cassandra-type prophecies. The reforms already carried out or commenced in Austria are extremely important both in particular and in general. The legitimate interests of society have not been touched in any way. Nevertheless, the phenomena attendant upon the partial withdrawal of the penal law from the armoury of social control measures deserve our special interest. We shall be meeting our responsibilities if we advocate decriminalisation to an extent commensurate with society's state of development.

So much for decriminalisation. Similar questions may arise in connection with «depenalisation». In Austria, just as in other countries, it is part of the penal law reform programme to reduce sanctions consisting of deprivation of liberty and to replace them by fines. A first step in this direction was taken by the Penal Reform Act (Strafrechtsänderungsgesetz) 1971. Since this Act came into force, even serious traffic offences may be punished by fines. The Act has been in force for too short a time for an evaluation to be made of how this change has influenced the behaviour of motorists. Negative results would, however, have been noticed. So it may be assumed that there are not any. So this success with the «Minor Penal Reform» encourages us to proceed in the same manner with the «Major Penal Reform», which is being debated in parliament at present.

Finally – and, in view of its weight, it should have been at the beginning of my speech – the most important question concerning the penal system will always be: how can the mandate of society be fulfilled in an optimal way to keep within adequate limits deviant behaviour that is unbearable or at any rate requiring a sanction. I think that the sciences of deviant behaviour may offer us essential help in answering this question. Only if we fully understand the rules and laws of this behaviour and its reactions, we shall make progress with our endeavours to achieve a more human penal law, a more human penal procedure and a more human application of penal measures. You can be sure that the legal authorities are prepared and willing to learn more in this field. We are well aware that we can accomplish this task if we start from a secure basis, and this can be provided only by the empirical sciences and their experience. We also know that there is much to be done where nothing or too little has been done in the past. Our willingness to make use of this experience is all the greater.

As a practical man I should like to add what I have repeatedly said, so that there will be no misunderstandings: Decriminalisation and depenalisation open the way to an enforcement of the law where the

greatest need exists: for protecting society from the dangerous offender. Decriminalisation and depenalisation are all the more important because they make available resources for the important task of protecting society, resources which were needed for tasks which we can accomplish more efficiently.

However, the close connection between the state of society and penal treatment has not been realised in our time.

I should like to quote some very beautiful and expressive words which were spoken in parliament by Karl RENNER, the Chancellor of our Republic in the years 1918-1920 and President between 1945 and 1950. He agreed with the famous words expressed in the year 1911 – nearly half a century previously: «The development of culture can be rightly measured by the penal law of a nation and of a country. The more barbarous a country is, the more barbarous are her punishments. The quality of her penal law may be called the cultural index of a nation».

You see, our opinions of today are linked with the great traditions of yesterday.

The exchange of views on an international scale is important and indispensable for our work. As you know, we play an active part in the work of the Council of Europe concerning the unification of European laws. We are glad that we can provide experience acquired over many decades and the special knowledge of influential representatives of the Austrian Ministry of Justice. I would mention here just one of them: Ministerialrat Dr. Wolfgang DOLEISCH, who is a member of your Foundation and who has been representing our country in a number of committees of the Council of Europe. A few weeks ago we discussed similar questions with a similar aim during the VIIth Conference of European Ministers of Justice in Basle. The president of your Foundation, Professor Jean DUPRÉEL, was one of the participants of that noteworthy conference. We agreed unanimously on what was stated in the report of the British delegation: Deprivation of liberty shall only be considered as «ultima ratio» amongst punishments and, in the same way, as «ultimo ratio» in the reaction of society towards deviant behaviour. With all emphasis and seriousness, Austria acknowledges this unanimous recommendation of the Ministers of Justice of all the member states which was made on 17th May 1972.

We shall now continue the discussion at this Third Colloquium of the IPPF. The list of participants shows what excellent scientists and experts, whose names are known throughout the world, will be taking part in this Colloquium. Your coming here does honour to Austria and gives her much pleasure.

As Minister of Justice of the Austrian Republic I welcome you warmly to our country. I extend my best wishes for fruitful discussions and useful results at the IPPF's Third Colloquium. Your success will be to everyone's advantage.

The Chairman then addressed in english the following words of thanks to Mr. BRODA:

I wish to thank Your Excellency for this very important speech. We shall find in it ideas that are stimulating for our activities and very valuable for the orientation of our discussions.

These will be of a difficult nature because their theme, « Deviance and social reactions », is very open and very general — perhaps too general.

The reports of our experts have carefully analysed the various aspects of the notion « deviance ». This work was necessary as a pre-amble and a background to our activities.

But here in Vienna we have only a little time at our disposal. Subject to what our Secretary-General may suggest, I propose, then, that we explore the problems rather from the practical side.

The essential thing for us is the nature of the social reactions against the new forms of behaviour which can be dangerous or harmful for the society in which we live.

At its first Colloquium, in 1962, our Foundation examined « The new psychological methods for the treatment of prisoners ».

In 1967, the second Colloquium was devoted to « The new methods of restriction of liberty in the Penitentiary System ».

Now, continuing in a logical progression, we are extending the notion of treatment. We shall go beyond the prisons and even the limits of the classical penal law, to examine what are the most appropriate reactions for defending society against the dangers which threaten its security.

Our Colloquium will produce useful results, if, in the field of decriminalisation and the more general field of the limits of repression, it defines more precisely the still too vague notions evoked by diverse international meetings in past years.

The meeting was then adjourned.

When the meeting was resumed, the Chairman paid the following tribute to the memory of the late Dr. Akira MASAKI, Associate Member of the I.P.P.F.

Mr. DUPRÉEL: « Before we commence our business, I should like to pay a tribute to the memory of one of our most distinguished colleagues whose death has been reported since the last meeting of our Foundation at Kyoto in August 1970.

Dr. Akira MASAKI, President of the Japanese Reformativ Association, passed away on 22 August 1971 at the age of 79.

He was one of the most knowledgeable criminological and penological authorities of his country. He had been Director of the Japanese Penitentiary Service and had also practised at the Bar in Japan. As a Professor at the University of Kanagawa, his works had earned him

considerable prestige and our Foundation had been honoured to number him among its members from 1962.

His death is a great loss to penal science and to our association.

I suggest that we observe a short period of silence in memory of our eminent colleague ».

* * *

After paying his tribute, the President invited Mr. P. ALLEWIJN, Secretary-General of the I.P.P.F., and general rapporteur for the colloquium to give an introductory talk on the work to be done by the meeting.

Speaking at first in German, Mr. ALLEWIJN wished to emphasize the fact that the participants in the colloquium had every reason to be in excellent spirits. They enjoyed the double privilege of staying in a delightful city and being able to discuss important questions concerning their daily work.

Vienna, he recalled, was a city where people knew how to hold a congress in which work and pleasure was combined.

Even if the present meeting was not as important or as long as the famous congress of 1814 it nevertheless contained the necessary conditions for an agreeable and successful congress.

The speaker was very pleased with the collaboration of Mr. DOLEISCH, chairman of the Organizing Committee, during the period when the colloquium was being prepared.

Speaking then in French Mr. ALLEWIJN expressed all his admiration for that language which he did not know as well as he would have liked. He expressed the hope that linguistic problems would not be obstacles either to the exchange of views during the working sessions or to personal contacts.

After giving some advice to the speakers to facilitate interpreting, Mr. ALLEWIJN presented his general report as follows:

It is now my task to try to introduce the subject of our conference. I shall express myself very carefully, because the subject: DEVIANCE AND SOCIAL REACTION covers an enormously large field of problems. It covers not only the penal and penitentiary field, it may even extend to society as a whole, to philosophy and religion, to the social and behavioural sciences and to ideas about culture and the appreciation of culture.

In a way, you might say that the subject of « deviance and social reaction » has to do with life, dealing with all the problems arising

from the very fact that we have to live with other people, that we have to live in a society. I think you will agree that it is not a simple task for me to introduce to you such a « lifesize » problem. Were we, was the International Penal and Penitentiary Foundation wise to choose such an extensive, such a comprehensive subject for a one-week conference. I believe it undoubtedly was.

When — at an evening meeting of the Foundation in Kyoto in 1970 if I remember rightly — you, Mr. DUPRÉEL, proposed the subject of « deviance and social reaction », there was immediately general agreement without much discussion.

I think there were three reasons in particular for that general acceptance of our present subject.

1. — So long as we are not quite sure that our classification of behaviour and our social reactions to deviance in society are correct, we have the duty to discuss this subject over and over again. And I do not think we are in fact quite sure. We are not sure at all about the boundary lines between our standards of normality and deviance, about our ideas of what kinds of deviance may be tolerated, perhaps even accepted and what kinds of deviance have to be disapproved of, rejected or even punished.

Besides, we are aware of the fact — for history has proved to us — that such boundary lines between normal and deviant are never fixed lines. These border lines are constantly open to question and liable to change.

We are not quite sure that all our penal regulations are necessary and represent the best means of combating the range of different forms of deviance concerned.

We are not quite sure that we are always right to label certain people with deviant behaviour as criminals, that we are always right to arrest them, to try and sentence them and to take away a part of their money or their freedom.

When I say we are not sure at all about our policy in the penal and penitentiary field, I mean that we even have the idea that we may be making mistakes.

Only a few weeks ago, Professor ANTTILA from FINLAND made a statement at the first meeting of the Crime Prevention and Control Committee in New York about what she called the most costly mistakes of the developed countries.

She said it was a mistaken idea that criminality was a kind of disease that could be « cured » through massive investment in « treatment » facilities.

Another mistake she pointed to was the failure to integrate crime prevention policy with long-term social planning policy.

One of the experts invited to this congress, Dr. PAWLIK, comes

in his report to the conclusion that one lesson that may be learned from a more careful study of the mechanism of behaviour, social opinion and their functioning is: that our traditional concept-formulation in this field should undergo a healthy broadening of perspective.

Mr. VERIN, our judicial expert, speaks in his report — giving guidelines for jurists — of the awareness of a certain sclerosis.

Mr. President, as long as we are not quite sure about our selection of behaviour and of our social reactions to deviant behaviour and about the radical measures we often take in this regard, and as long we even have the idea that we may be making mistakes, we have, I think, a duty to discuss the subject.

2. — The second justification for our subject is related to the fact that the general development of life, of society is proceeding much faster and becoming more complex in our time than at any time before. Well, in one way or another, development means deviance. Rapid development means increasing deviance. In our private lives as also in our professional lives, we are constantly being compelled to revise firmly held opinions about a lot of already known phenomena and to form an opinion about new phenomena.

What was true yesterday is not always true to-day; what is deviant to-day will perhaps be normal or at least acceptable or tolerable tomorrow.

We hardly have time to think about the completely new phenomena which appear. We have perhaps the inclination to reject all phenomena which are out of tune with the present order. On the other hand, we realise that much of society's development in the past was due to people who were opposed to the established order, who behaved in a deviant way and caused the new phenomena. What is to be done with people who protest against a war and thereby disrupt the traffic? How should we deal with people who refuse to enter our work-oriented society by not working? How should we deal with tourists who come into the country without money, sleep in the streets, make love in public and smoke marihuana? How should we judge those people who, as managers of industry, work day and night to raise the national income for our and their own profit but meanwhile reduce our possibility of living a healthy life by polluting air, soil and water with their waste products? It would seem very useful for us at least to have one week here to consider these kind of problems, to exchange our experiences, our ideas and conceptions for the near future. If we do not allow ourselves time to reflect on what is really happening in our developing society, we run the risk that a gulf will arise between us and the new generation.

Further, the experts at our conference, Dr. DESSAUR and Dr. PAWLIK speak in their reports of the influence of development and the complexity of our society.

For instance Dr. Dessaur states that in a modern, complex society

many more laws, including penal laws are needed to regulate social behaviour than was formerly the case.

White-collar crime, crimes born of new technical possibilities are — in her opinion — generally inflating the potential criminal population.

Mrs. Dessaur states also that historically we have gone from being a relatively uniform society, where criminality arose most of the time from need, to being a very dynamic, pluriform society with much welfare criminality.

Dr. PAWLIK also mentions the influence of development. He says in his report: as technology, economy and science develop, non-punitive legal measures, therapeutic, educative and environmental change seem to be added to punitive measures.

3. — A third possible justification, for our subject is that precisely in a fast developing society — such as I have just described — we must give ourselves the time to reflect on how new ways of approaching our problems may be developed. It is very dangerous, I think, for practical experts to handle problems, new phenomena, in a traditional way, in the way we have been used to handling problems. Particularly in a period of fast development, we are in need of help from those who spend their time on research into what is really going on in our society, the behavioural scientists.

I think the justification for today's subject also lies in the possibility, this week, of an exchange of views between practitioners and scientists. We are very grateful to the three experts for the work they have already done, as it is recorded in the documents, and for the help they will give us in the discussions.

The experts also underline the importance of contact between practical and research experts.

Dr. DESSAUR and Dr. PAWLIK in particular call for more empirical research in order to provide a better base for legislators, policy-makers and those, responsible for implementing penal sanctions.

Dr. DESSAUR states in her report that anybody wishing to explain and predict deviant behaviour will have to rely on empirical research. Of course, one can also try to explain and predict deviance on the basis of experience and common sense. This may lead to more or less fortunate trial-and-error results.

In Dr. DESSAUR's report — speaking about the fact that, in the field of penology, we have only just begun to do sound scientific research — the words of Leslie Wilkins are quoted: « We are as yet only at a stage where the nature of our ignorance is beginning to be revealed ».

Dr. PAWLIK, who develops in his report a new model for classification of behaviour and its social control, remarks how little empirical knowledge we actually possess about the major variables operating in this field and, furthermore, how wide a gap there is between our actual knowledge about deviance and crime on the one hand and criminolo-

gical and other theorizing about these phenomena on the other. Dr. Pawlik's advice: « more data and less theory », may be a healthier point of view for the years to come.

Well, Mr. President, I have mentioned three justifications for our subject on deviance and social reaction.

Firstly: the very fact that we are not sure that our division between normal and deviant, between punishable and non-punishable is correct.

Secondly: the rapid development and the complexity of our society confronts us with a series of new deviant phenomena, which we have to evaluate.

Thirdly: the importance of a meeting between practitioners and researchers on the subject of deviance in the interests of a better understanding and in order to stimulate each other.

How shall we try to treat, to discuss our subject this week? Not a simple question for such an immense subject. Perhaps I can offer some advice.

In the first place, I think, we shall have to avoid too many definitions. It is very tempting to plunge too far into the question of deviance. Our congress is not in the first place a scientific congress, but a meeting of practitioners and academics.

In the second place: Thinking and speaking about deviance and social reaction, one is perhaps inclined to start too early with questions about persons who act in a deviant or criminal way: what are the motives for their conduct, where do they come from and what is the explanation for their not behaving in a proper, normal way?

Well, I think it is better in the first place not to think and to speak about the people with deviant behaviour. The more important question is why do we find certain conduct deviant or judge it to be such? What reasons are there to label certain conduct deviant?

Perhaps it is still better to start with what I consider to be the most important question: are our conceptions of what we call proper or normal behaviour valid compared with the deviant behaviour we criticize or deplore?

Let me give you an example taken from real life. In Holland there is still an enormous housing shortage. In a way you might say that this is our national problem. Well, a certain not very strongly organised group of mostly young people calling themselves « gnomes » tried to oppose the authorities, saying that too little was being done to solve this serious problem.

One method was to occupy empty houses or flats which were for sale and had usually been so for many months. The gnomes selected

a family waiting for a dwelling and put it into one of these illegally occupied houses.

Well, you may wonder what kind of people these gnomes are with their long hair and beards and their unusual dress. But you may also wonder why their behaviour — admittedly illegal — is deviant or abnormal.

It would be better I think to ask why it is considered right for a large number of houses to be empty for months, at a time when there is a tremendous housing shortage. With such an approach there is a chance to come to the conclusion that what seems to be deviant or abnormal may in fact be the more normal, while the reverse may also be the case, of course.

Treating the current problems of deviant behaviour in this way may perhaps give us a better insight into what is really going on. Remember again that progress comes mainly from deviants. Bernard Shaw once said that progress always comes from discontented people and never from the contented.

On the other hand, not all deviance leads to progress. But we have to be careful about labelling deviance, if we are to rule with wisdom. We shall have to be selective and to make our decisions. This aspect is in particular underlined by Dr. PAWLIK in his report, where he says that a social system will manifest the extent and kind of deviance and crime which it has decided to have; namely through its decisions as to how it should classify and react to its member's behaviour.

For the sake of convenience we have divided the conference into two sections. The first section, under the leadership of the highly experienced Prof. Dr. ANCEL, will deal with the sociological and legal aspects of our subject.

Section I has two experts, Prof. PAWLIK and Mr. VÉRIN, who have treated the subject in their documents to provide you with the necessary background.

Mrs. DESSAUR has done the same for section II. This section should have been led by Mr. CARLSON of the United States of America. But quite unexpectedly he was unable to come. In his place we found Mrs. ANTTILA prepared to take the chair for section II. She is a professor of penal law from Finland. So, two ladies will be serving you in section II; perhaps a woman's view on our subject is different from a man's, in our male society!

I will not speak about the documents prepared by the experts. They will introduce to you their reports in the section meetings to take place this afternoon.

So the arrangements we have made should enable you to have a fruitful discussion this week on the conference theme of « deviance and social reaction ».

But remember that you can and ought to make your *own* conference. We — the steering committee, the experts and the organisation com-

mittee — can only create favourable conditions for a good conference, but it is up to you to make your own, successful conference.

When shall we be able to say that our colloquium has been a success? What kind of results are we expecting? Well, let us make no mistake. I do not believe it is the Foundation's intention that this conference should lead to results in the sense of generally adopted conclusions about what should be considered in future as normal and what as deviant or criminal behaviour, or what society's reactions ought to be. We have called our conference a colloquium, which means, I think, that the aim is implicit in the discussion itself. A fine result will have been achieved if you are enabled to formulate your own ideas more clearly and to gain a better understanding of other people's ideas.

Speak frankly, listen carefully and open your mind. I am sure people here will be tolerant and will not label you.

I shall end by quoting a short comment made by a young and rather progressive young man. He said that what is wrong with today's generation is not that they have no answers. They do have a lot of answers. The present generation's fault is that they have forgotten the questions.

Perhaps, Mr. President, we can find and formulate some of today's issues this week. It would be an excellent result for our colloquium.

Experts'

Reports

REPORT no 1

ORIGINAL: FRENCH

The Jurist and Deviance

by

Jacques VERIN

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The Jurist and Deviance

1. — For some time now we have been witnessing a kind of invasion of criminology by deviance.

Does not the jurist have some cause to stop and think about this idea which is doubtless as old as the world itself, but the present recognition of which seems to spring from a suspicious reaction on the part of the sociologist towards him at least as great as the reaction towards the medical experts? The pure jurist as such has doubtless ceased to exist and the law specialist has begun to lend an ear to human sciences. But perhaps it would be useful for him to examine, in his function as a legislator, a judge or a person responsible for the execution of sentences, in what way this idea of deviance could be of interest to him.

2. — Theories and deviance have been developed at length in the course of recent international gatherings, such as the Eighth social defence Congress (techniques of judicial individualization), the Ninth Conference of Directors of Criminological Research Institutes, at the Council of Europe (the perception of deviance), the Premières Journées franco-québécoises de criminologie (Social Reaction to Deviance), the most recent Brussels Criminology Congress (the frontiers of repression); thus I do not have to review them all yet again here. There are also several recent publications containing excellent summaries (1). This brief report will thus be concerned mainly with suggesting some of the conclusions which jurists may draw from these deliberations on the theme of deviance. To provide a basis for further discussion I shall deliberately present my propositions in an unequivocal, polemical form.

3. — The literature on deviance is vast and the successive stages in its development, from DURKHEIM to the Chicago school, and the

(1) We should mention particularly the following works:
ALBERT COHEN « Deviance and Control », Prentice Hall, Inc., Englewood Cliffs, 1966.
MARSHALL B. CLINARD « Sociology of Deviant Behaviour » Holt, Rine and Winston, Inc., third edition, 1968.
DENIS CHAPMAN « Sociology and the Stereotype of the Criminal », Tavistock, London, 1968.
DAVID MATZA « Becoming Deviant », Prentice Hall, Inc., Englewood Cliffs, 1969.
DENIS SZABO (ed.) « Déviance et criminalité » Armand Colin, Paris, 1970.
SHLOMO SHOHAM « The mark of Cain » Israel University Press, Jerusalem, 1970.
PHILIPPE ROBERT « La sociologie entre une criminologie du passage à l'acte et une criminologie de la réaction sociale », series of lectures on criminal sociology, University of Bordeaux, roneo, 1972.

functionalists like Robert MERTON, to the new Chicago school with Howard BECKER, Edwin LEMERT, Ervin GOFFMAN and Albert COHEN, have been singularly well analysed by David MATZA (2). It will be sufficient for me to list here the basic features. I believe that they can be reduced to three:

- 1) a scientific concern for a neutral approach to the law and morality
- 2) a stress on the continuity of the phenomenon of deviance, from offences against good manners to violation of the most sacred norms
- 3) the importance given to the stigmatising effect of social reaction in the genesis of deviance.

What can the jurist extract from these ideas? In my view, three guidelines on which he can base his thinking:

- the awareness of a certain sclerosis and a more or less unconscious attachment to hypocritical and immoral social structures and mores, and arising from this, awareness of the need for a renewal of studies of morality,
- the adoption of an understanding attitude opposed to the traditional punitive spirit, which brings us to the humanism of the new social defence,
- the adoption of a criminal policy in the true sense.

These are the three directions for our thoughts which I shall be examining one after the other, indicating their justification, as I see it, in the theories of deviance.

NEUTRALITY

I - BAD CONSCIENCE AND MORALITY

4. — Studies of deviance were born of a *concern for scientific independence* from the disciplines of psychopathology, law and, beyond law, ethics. The problem which all criminologists come up against is: what sort of science is it which has no domain of its own and has to admit helplessly that its limits can be changed by other sciences as they wish?

The very term deviance is an indication of this search for an objective criterion independent of any value judgement or hint of reprobation. The idea of individual pathology and even that of social pathology convey a moralising tone which must be dispelled and re-

(2) DAVID MATZA, *opus cit.*, particularly pp. 1-85.

(3) DAVID MATZA, *opus cit.*, pp. 41-66.

placed by the notion of diversity. This is what was done first of all by MERTON and the functionalists and then even more definitely by LEMERT, GOFFMAN and BECKER (3). This position, as summed up by Mr. VERSELE, is that: « It must be openly proclaimed and genuinely admitted that penal law does not support any moral view of life and that its objectives are of a social and not a moral order » (4).

In their concern for liberation with regard to moral conceptions and legal rules, some people have even extended the notion of deviance to all those who are perceived in a community as being different, even if they have not deliberately infringed any norm, such as the manifestly handicapped (5), foreigners, the poor (6), etc. . . .

Any statistical definition of deviance is however too simple a solution and BECKER himself dismisses it since, as he says, the hunter armed with such a definition would return with a very incongruous bag of game: fat people, murderers, red-heads, homosexuals, traffic offenders, etc. . . . (7).

COHEN also distinguishes deviant roles from devalued roles which are not all deviant: in contrast to the role of the slave, the hunchback, the mental defective, the sick and the blind, roles such as the coward, the thief, the scoundrel and the adulterer have one common characteristic, which is that the people concerned know what they are doing and choose to violate certain normative rules (8).

5. — But if we talk of violation of norms, these norms will be any social rules whatever and not the rules given special status by the law and the penal system. This is the idea of a *deviation continuum* to which we shall return later. Having freed themselves from metaphysical, moral and judicial ideas, sociologists concerned with deviance will take as their point of reference only those rules which are in fact accepted and applied in practice by social groups of any kind. This increases the

(4) S. C. VERSELE « La perception de la déviance et de la criminalité. Aspects juridiques », paper presented to the Ninth Conference of Directors of Criminological Research Institutes, pp. 26-27.

(5) Cf. FRED DAVIS in « The Other Side », ed. Becker, New York, 1964.

(6) Cf. CHAPMAN, *opus cit.*, p. 239 in which analogies are drawn between the stereotype of the delinquent and the stereotype of the poor person, also burdened with moral reprobation, scientifically studied for the first time in « Poverty: a Study of Town Life » (1899) by B. Seebohm Rowntree.

(7) BECKER « Outsiders » (New York, 1963) p. 5. All the more so since this consideration should not be a determining one for those who, like Becker, think that it is the stigmatisation which creates the deviant. Shoham shows clearly (*opus cit.* pp. 104 et seq.) that oddness and perceptibility are sufficient to produce fear and anxiety in others and to release the mechanisms of stigmatisation, as if the moral norms had been transgressed at the same time as the physical ones.

(8) A. COHEN, *opus cit.*, ed. Duculot, p. 70.

relative nature of deviance since one may very easily be deviant in relation to a society by virtue of conforming to a group or a subculture.

This tendency brings us back to the study of the systems of morality practised in a given society and it must be admitted that notwithstanding the frequent use in sociology of such concepts as value, norm, the normative system etc. . . . , the sociology of moral life has been singularly ignored (9).

Until now scientific neutrality has always been the goal. But it would seem that declared hostility towards traditional bourgeois morals, linked with religion and metaphysics, has led deviance theorists, paradoxically, to take up an essentially moral attitude in order to denounce official hypocrisy. One of the most frequently recurring themes in literature on deviance is showing the existence of a gulf between official morality and real-life morality, the machinery by which the rich and powerful gain exorbitant privileges without being stigmatised (10). Some people analyse the numerous procedures and situations which ensure more or less total immunity with regard to penal law for certain social classes (11), others emphasize the significance of white collar crime, and the extent of black figure (*chiffre noir*) criminality, the frequency of favours or « perks » in the administration and in business — « give-and-take arrangements » (12) or *Krugovaia poruka* (13); each in turn stigmatises this selective morality and moral schizophrenia which MILLS has called « the greatest immorality » (14); they point out that for decades penal law has allowed confusion to reign between civic morality and economic privilege (15), and they stress the generosity of the revolt of the young, often more moral than those who hound them (16). The State takes on the form of a leviathan devoid of morals, pitilessly crushing its adversaries (17), and the international scene is a favourite background against which to highlight the machiavellianism

(9) Cf. G. GURVITCH « *Traité de sociologie* » Third edition, Vol 11, p. 139 et seq.

(10) Cf. SHOHAM, *opus cit.*, « Les privilégiés » p. 84 et seq.

(11) CHAPMAN, *opus cit.*, Chapter 3 « Social class and the differential distribution of immunity », pp. 54-97.

(12) SHOHAM, *opus cit.*, p. 86.

(13) A. COHEN, *opus cit.*, pp. 176-180.

(14) Quoted by SHOHAM, p. 88.

(15) VERSELE « Rapport général sur 'Les attitudes de la population, du milieu criminel et du monde judiciaire à l'égard de la justice pénale' » Ninth French Criminology Congress, in « Le fonctionnement de la justice pénale », Faculty of Law, Montpellier, 1971, p. 233.

(16) VERSELE, Paper tot the Ninth Conference of Directors of Criminological Research Institutes, p. 8.

(17) MATZA, *opus cit.*, pp. 162 et seq.

of people in power and their immorality (18). Following the example of DURKHEIM, writers discern the opposite of retrograde criminality, an « antérograde » (progressive) criminality, which contributes towards social and moral progress. But it is even possible to take this one step further and to think that the real deviants are the people who betray true morals and stigmatise others, as it is they who have all the power in their hands.

One needs all the ability of a DURKHEIM to avoid the moral aspect of this judgment; he endeavoured to base his argument on the fact that normality may at certain times be no more than an illusion. It is something which should be quoted (in translation) here as it applies so well to our « period of transition during which the whole species is evolving without yet being finally fixed in a new form ». « In this case » writes DURKHEIM « the only normal type of person who has ever existed, is the one belonging to the past; yet this type is no longer attuned to the new conditions of life. Thus a fact may be continue to be accepted by an entire species although it may no longer meet the requirements of the situation. Thus all there is left is the semblance of normality; since the generality it presents is no more than a wrong label, only kept alive by the blind force of habit, it is no longer any indication of the fact that the phenomenon observed is closely linked to the general conditions of collective existence. » (19) And the two examples given by DURKHEIM are also worth quoting here: one is the capitalist organisation, which to socialists constitutes, despite its generality, « a deviation from the normal state, produced by violence and artifice » (20), and the other is the lack of economic organisation on the part of the European nations, which constitutes at present a morbid state; because this situation is bound to the old social structure which we have elsewhere described as being segmental and which, from having been at one time the essential framework of societies, is now rapidly disappearing. » (21)

If deviance is assessed in relation to the society emerging at present, should we not consider as criminal anything which perpetuates the division between nations, war, famine, anything which imperils the survival of the human race? Should we not then see the petty thief and murderer as belonging to a category of innocents and victims, like Charlie Chaplin's « Monsieur Verdoux », alias Landru, going out to his execution against the background of the smoking chimneys of

(18) Cf. J. VÉRIN, « La criminologie et l'immoralité internationale » *Revue de science criminelle et de droit comparé*, 1971, pp. 745-750.

(19) DURKHEIM, « Les règles de la méthode sociologique », Seventeenth edition, PUF, Paris, 1968, p. 60.

(20) DURKHEIM, *opus cit.*, p. 73.

(21) DURKHEIM, *opus cit.*, p. 61.

the armaments factories? But this, whether we like it or not, is a moral standpoint and for me the theories of deviance, for all their neutralist pretensions, aim at arousing feelings of guilt in the jurist and urge him to seek a better equation of law and morals. The jurist has to examine his conscience. Does he not allow himself to be satisfied with a totally theoretical acquaintance with morality, or ethics, tucked away in the preamble to legal treatises to be totally lost sight of later on?

7. — The sociologist and criminologist are keeping to their scientific role by describing facts and documenting the hiatus between official ethics sanctioned by law and the ethics of real life; but is it not *sollen*, rather than *sein*, that is the domain of the jurist and would it not be a failure on his part if he did not try to renew his acquaintance with the living source of ethics?

To judge by the abundance of attempts to work out a new system of ethics, based on human solidarity in the case of DURKHEIM (22) or CAMUS, on the virtues of experimental science by FRIEDMAN (23) or FOURASTIÉ (24), on intellectual honesty by MONOD (25) on the need to ensure both the survival of the human race and the defence of the individual by Father HAMBURGER (26), one senses the need for a moral system better adapted to our age. Should the jurist be the only person not to take part in this work of salvation? (27)

II - CONTINUUM, STIGMATISATION AND UNDERSTANDING

8. — If the jurist, in the eyes of deviance theorists, has cut himself off from ethics and made a pact with the hypocrites, he has also denied himself any real understanding of social phenomena and of human nature in confining himself to the domain of penal law which he himself has marked out. He has forgotten that this is an artificial barrier and

(22) DURKHEIM, « L'éducation morale », new edition, PUF, Paris, 1963.

(23) GEORGES FRIEDMAN, « La puissance et la sagesse », Gallimard, Paris, 1970.

(24) GEORGES FOURASTIÉ, « Essais de morale perspective », Gonther, Paris, 1966.

(25) GUSTAVE MONOD, « Le hasard et la nécessité », Le Seuil, Paris, 1970.

(26) JEAN HAMBURGER, « La puissance et la fragilité » Flammarion, Paris, 1972.

(27) The Department of Criminology at Montreal has been one of the few centres of criminological research to undertake studies into moral values and judgments. I share the opinion of DENIS SZABO who thinks that we are « at the dawning of a decade which will see a new — forced — interest in moral problems » (*opus cit.*, p. 6).

that there is an underlying continuity not only between all acts of deviance but also between deviant behaviour and conventional behaviour. The existence of a *continuum* linking total conformity with the most extreme deviance is one of the major themes of the deviance schools. The complexity of the relationships between deviant phenomena and conventional phenomena is also stressed by several writers: between these phenomena there is not only continuity, often there is also overlapping, interaction and symbiosis (28). It is because they have lost sight of these realities that jurists, and sometimes even criminologists, have been able to transfer their abstractions to real life, to attribute a special nature to acts which contravene penal laws and to see in the delinquent a different being belonging to a different race altogether from respectable people. Thus the stereotype of the criminal was born (29), creating an obstacle to any understanding of the man, a barrier to all communication. If the delinquent is seen as an enemy to be eradicated, all those processes of devaluation, degradation and annihilation which have been so well analysed as taking place in the criminal himself (and in people at war) will also intervene in the mind of the lawyer so as to create an abstraction which can be dealt with more easily.

9. — The merit of the deviance theorists has been to show us that there is a need to consider deviants as individuals and not as objects and to temporarily banish not only all feelings of hostility but also any reforming attitude towards them in order to put ourselves in their place and to see everything through their eyes, in short to substitute empathy for blind condemnation (30). This is a step which the new social defence, and its spirit of humanism have recommended to us (31) and from which it has drawn a number of consequences with regard to the penal process.

10. — Another consequence of the point of view advocated by BECKER, LEMERT, GOFFMAN and others is that it puts an end to this kind of incarnation of deviance in the action and the person of the deviant. It dispels the manichaeism of the good and the evil and the righteous

(28) Cf. the concepts of *overlap* and *irony* whose development through the various schools is traced by MATZA (*opus cit.*, pp. 68-85) and CHAPMAN's theory of symbiosis between delinquents and non-delinquents (*opus cit.*, especially pp. 40-46).

(29) Cf. the analyses of D. CHAPMAN (*opus cit.*)

(30) Cf. the chapter dealing with this opposition between « correction and appreciation » by D. MATZA, *opus cit.*, pp. 15-41.

(31) MARC ANCEL, « La défense sociale nouvelle » Second edition, Paris, 1966, especially p. 240 et seq. Note the link between this consideration of the personality of the delinquent and that of moral values (p. 242): « this human nature replaced in its sociological complex, can only be understood by deliberate reference to commonly accepted moral values on which social defence will increasingly unequivocally base its policy of 'resocialisation' ».

indignation so scorned by Aldous HUXLEY in his short stories and novels. To put oneself into the shoes of the deviant and to follow with him the stages leading from the commission of an act to the constitution of a personality is to study social reactions and to realise the importance of the labelling and stigmatisation process in the genesis of deviance — another of the dominant themes of deviance theorists aptly summarised in this quotation from William FAULKNER which BECKER takes as an epigraph to his work « Outsiders » — « It's like it ain't so much what a fellow does, but it's the way the majority of folks is looking at him when he does it ». (32)

Deviance is not a characteristic inherent in behaviour itself but in the interaction between the person who commits an act and those who respond to it. (33) « Criminals, pariahs and outlaws are the product not so much of the law, of ethics or of God, as of man exploiting social stigmatisation » (34). This idea has been repeated a hundred times; it is no longer new and it would not be possible to retrace its origin in the space available. There is no need to quote DURKHEIM yet again, since we may recall that it is a major theme of the works of SARTRE — both of the philosophical works where we find the famous phrases « L'enfer, c'est les autres » (Hell is the others) and « Ma chute originelle, c'est l'existence de l'autre » (My original sin is the existence of others) (35) and of the psychological works as in « La question juive » (The Jewish Question), in which Sartre takes apart piece by piece the mechanism whereby the anti-semites created the Jew.

The effects of social or judicial stigmatisation on the deviant, the consequences of this prophecy which brings its own fulfilment and in any case accelerates development from deviant action to deviant character have been analysed so often by our writers (36) that there is no need to labour the point.

11. — I shall confine myself to pointing out that the lesson to be learned concerns everyone and not only the jurist and the penal system. There are many more judges and courts of law than we think and it would be a good thing to put official, formal justice in its right place in the totality of social reaction. There too there are numerous interactions and it has often been noted for example that social disgrace has come to be attached to the penal sanction almost independently of the offence, thus adding to the legal sentence consequences which are often more serious than the sentence itself.

(32) WILLIAM FAULKNER, « As I lay dying ».

(33) BECKER, « Outsiders », p. 14.

(34) SHOHAM, *opus cit.*, p. 114.

(35) Cf. ERIC WERNER, « De la violence au totalitarisme. Essai sur la pensée Camus et de Sartre », Chapter III entitled « L'enfer, c'est les autres », p. 165-176.

12. — Nevertheless penal « stigmatisation » has an importance of its own and the jurist should learn a useful lesson from the analyses mentioned above for legislation, prosecution, sentencing and the execution of justice. A deep understanding of human nature and the psycho-social processes at work in the genesis of deviance is all the more necessary as the jurist is not simply an academic but a man engaged in social action, responsible for conceiving and applying a « criminal policy ».

III - DEVIANCE AND CRIMINAL POLICY

13. — For a long time criminal policy was conceived, as it still is by some people, within very narrow limits, as a set of measures worked out within the framework of existing institutions and laws with the purpose of optimising the repression of crime. As Georges KELLENS writes (37): « this conception, which reduced criminal policy to the status of the strategy and tactics employed by the State against « the army of crime » in which born criminals formed the « big battalions », has become rapidly outdated. Criminal policy is more than the application of penal law essentially in the form of penitentiary « treatment ». »

14. — The new social defence movement has considerably broadened the field of action of criminal policy, which « in the face of the indisputable transformation of modern society » should now « work out a system of penal law which is no longer anachronistic and which takes into account human and social reality and which endeavours to make provision for this with the maximum clarity and effectiveness » (38).

In a study entitled « Criminalité et déviance. Essai de politique criminelle » (Criminality and deviance. A proposed criminal policy). (39) Paul CORNIL also asks the legislator to intervene not so much by adding new texts or partial amendments to the laws, as by undertaking a reexamination of the whole penal problem. In the eyes of Jean DUPRÉEL the fight against the phenomenon of crime « calls for concerted action far broader than the narrow framework of a penology

(36) Cf. The syntheses in this connection presented by MATZA, *opus cit.*, p. 87-197 and SHOHAM, *opus cit.*, pp. 154-237.

(37) GEORGES KELLENS, « L'élaboration d'une politique criminelle rentable » in *Revue de droit pénal et de criminologie*, 51st year, no. 9, June 1971, p. 902.

(38) MARC ANGEL, « La défense sociale nouvelle », second edition, Cujas 1966, p. 15 (Introduction of the first edition).

(39) PAUL CORNIL, « Criminalité et déviance », in *Revue de Science criminelle et de droit pénal comparée*, 1970, pp. 289-308. See also by the same author « Une politique criminelle réaliste », in « Les principaux aspects de la politique criminelle moderne », A collection of studies in memory of Father DONNEDIEU de VABRES, Paris, Cujas, 1960.

limited to the study of measures taken with regard to delinquents who have fallen foul of the judicial system ». « Today », he writes, « we are thinking more in terms of the treatment of delinquency which goes far beyond the personality of the delinquents... » (40).

15. — This tendency toward's a broadening of the notion of criminal policy to include both social and general prevention and the revision of penal law and the judicial system is supported by analyses of deviance. Some of these stress the continuity of attitudes and behaviour from the strictest conformity to the most serious crimes, some underline the major role of social reaction, and of stigmatisation in particular, in the genesis of deviance, others accentuate the state of moral crisis of modern society and the inequality between the treatment of deviance in the rich and the poor, the governing and the governed, but all these analyses should provoke those responsible for formulating criminal policy to undertake a fundamental review of the penal system.

16. — The idea of a continuum draws attention to the numerous similarities between deviants and non-deviants underneath the superficial differences. A. COHEN, writing of theories of cultural transmission, claims that « they minimise the mystic aura and peculiarity of deviant behaviour and maximise « the common humanity of the deviant and the conformist » (41). The resulting attitude of understanding and sympathy, in contrast to the attitude of scorn, hatred and unrelenting repression, is the sine qua non of a realistic, enlightened and effective criminal policy.

The legislator is also asked to consider this continuum with new eyes, disregarding existing legislation in order to determine, as a function of modern society, the sectors of deviance for which he would like penal sanctions to exist.

On this point I should like to take Messrs. CORNIL and DUPRÉEL to task since, by contrasting the terms of criminality and deviance, they do not seem to me to adopt the vision of criminal policy which they themselves advocate, until after the die is cast, the labels affixed and certain deviant behaviour has been deemed to fall outside the province of penal law whilst other deviant behaviour has been given criminal « status ». Perhaps it is purely a question of language, but are we not nevertheless in danger of taking the short step from there to the idea that deviance and criminality are two different kinds of phenomenon and deviants and criminals two different kinds of human

(40) JEAN DUPRÉEL, « L'avenir de la pénologie », in *Revue de Science criminelle* 1971, pp. 319-331; and his « Notre époque face au crime », *Revue de droit pénal et de criminologie*, 50th year, no. 9, June 1970, pp. 838-851.

(41) ALBERT COHEN, *opus cit.*, p. 187.

beings? There would then be the temptation of advocating resocialisation treatment for one category and a degree of « neutralisation » for the other; this would lead us to a dualism which is contrary to all the theories of deviance and to the spirit of the new social defence.

17. — The second aspect of these theories, the one which makes social reaction to anything different and unfamiliar into an element in the creation and amplification of deviance, provides criminal policy — which was previously concentrated exclusively on the delinquent — with another equally important objective; to actively campaign among the public, in voluntary institutions, and in the judiciary itself against anything that encourages and promotes the development of deviance. The catalogue of harmful mechanisms of this type could usefully be left until the subject is debated and I shall have nothing more to say on this point at present.

18. — Finally the state of moral crisis in moderne society, as underlined by the deviance sociologists, in its turn makes a criminal policy in the full meaning of the term imperative. As has been pointed out already we are faced here with a twofold problem: the first is to ascertain the real nature of ethics, or mores, if you prefer that term, and their evolution: and the second is to accept the major responsibility of the legislator and all the organs of the judiciary in the selection of the values to be protected either by penal law or by other means.

As far as the first point is concerned, people have often pointed out the state of extreme confusion of moral values in which human society finds itself, a society whose evolution has been so rapid during recent years that it has even been described as a true mutation (42).

Society has become so complex — this refers principally to Western industrialised societies, though their example is being followed by many other countries — that it tolerates within itself a multiplicity of different normative systems which are often conflicting: this has been called a permissive society, but also a society where the spirit of tolerance is getting out of hand (43), an anomic society in complete confusion (44) in which the best and the worst rub shoulders, profoundly immoral — or amoral, some would say — but at the same time a society eager to find and impose a new moral system by violence if need be, and to reinstate social justice by terrorism if need be, and notwithstanding the implied contradiction; a society without love, without purpose,

(42) Cf. DUPRÉEL, *opus cit.*; CORNIL, *opus cit.*; PINATEL, « La société criminogène », Colmann-Lévy, Paris, 1971.

(43) Cf. HAMBURGER, « La puissance et la fragilité ».

(44) VÉRIN, « Notre société anomique », *Revue de Science criminelle*, 1971, pp. 987-994.

mediocre, devoted to the cult of living for the present (45), but also an aggressive, fanatical society in which men sacrifice their lives and the lives of others, in their millions, for a problematical future. . .

The thing that stands out most clearly in this confused picture is that the society in which we live has lost its « collective conscience », its « consensus » (46). Beccaria's compass, which was designed to indicate to both the ignorant citizen and the philosopher the dividing line between right and wrong, has come unhinged in the storm of civilisations, as First President AYDALOT put it at the Eighth Social Defence Congress. Does even the notion of deviance have any validity nowadays? COHEN rightly noted that « in a rapidly changing heterogeneous society there are few rules whose validity is not contested by individuals, and whose application is not considered by them to be an illegitimate attempt by some individuals to impose their views on others. » (47) And the list of people who refuse to consider themselves as deviants, homosexuals (48), people who have recourse to illegal abortion, political extremists, marijuana users, could be continued indefinitely.

19. — It is for this reason that the task facing criminal policy is immense and arduous. It must certainly modify « the frontiers of repression », decriminalise behaviour which no longer assaults « the strongholds of collective conscience » (49), and establish, on the other hand, new charges in certain sectors of our contemporary life (50) — it must also develop preventive social action and make the social defence viewpoint heard in all sectors of development planning. But is not the role of the jurist today even more basic; should he not, even before

(45) Cf. the developments devoted by SHOHAM to bad conscience and the syndrome of amorality, and to the absence of a goal and life plan, the inability to love, the cult of living for the present and aggressiveness (*opus cit.* pp. 31-46).

(46) Cf. ALVIN TOFFLER, « Le choc du futur », pp. 292-309, « A society which has lost its consensus . . . which is witnessing a rapid disintegration of its values and life styles questions all the old mechanisms of integration and calls for completely new bases for its reconstitution . . . As diversity combines with the ephemeral and novel society is precipitated into a historical crisis of adaptation ».

(47) A. COHEN, *opus cit.*, p. 48.

(48) Cf. the manifesto of the « Front homosexuel d'action révolutionnaire », entitled « Rapport contre la normalité », ed. Champ libre, Paris 1971.

(49) Cf. LEVASSEUR summary (p. 31 of the typewritten text) presented to the Eighth International Social Defence Congress, Paris, November 1971; Criminology Congress, Brussels, 1972, on « Les frontières de la répression ».

(50) Not forgetting, however, the dangers which decriminalisation may sometimes present and to which Mrs. ANTTILA draws attention (in « Scandinavian Studies in Criminology, vol. 3, pp. 15 et seq.); in particular an increase in severity and a reduction of legal guarantees.

deciding how the values to be protected should be divided between penal law and other measures, himself participate in the selection of these values?

Like Jean PINATEL, I too believe that jurists have a very important role in this hour of decision (51). In any case they can endeavour to fill the gap between the law and morality and to restore that unity and coherence without which there can be neither morality nor law.

(51) JEAN PINATEL, « La société criminogène », pp. 240-241, « There exists (thus) a possible choice for legislators and jurists. They have too often disregarded this possibility and have been content to record the resolutions dictated by a thousand twists and turns of historical and social evolution. This abdication of responsibility cannot be tolerated ».

REPORT no 2

ORIGINAL: ENGLISH

Deviance, Crime,
and Social Reactions

by

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Deviance, Crime, and Social Reactions

Scientific progress, at least in the behavioural sciences, often seems to require a systematic broadening of research approach and a shift away from what at first appeared to be the primary object of study. For example, psychological research on traffic offences and road safety concentrated for decades on the study of accidents and their psychological etiology. However, a considerable proportion of this research produced negative findings failing to isolate — at any satisfactory level of statistical confidence — the psychological factors underlying road accidents. It later became apparent that this was due to the rather low reliability of accident data, and a fruitful new research strategy was initiated when, instead of concentrating on accident data, people started studying traffic (especially: driving) behaviour in general, including near-accidents and the situational and psychological determinants of the measurable variables of driving behaviour.

A similar situation seems to obtain with regard to criminology and crime. Classifying behaviour as either criminal or non-criminal (with respect to its compatibility with existing legal norms) is essentially a non-behaviouristic approach to certain forms of behaviour. For the very same behaviour may or may not be criminal, depending on the set of legal norms against which we happen to «measure» it. What is considered criminal in one society at one time may be completely legal at another time or in another social system at the same time. Thus, looking for differential causes of crime may amount to asking for different causes of one and the same type of behaviour as it is judged in relation to different legal systems. It is in this context that the study of *deviant behaviour* rather than crime has seemed to offer to the criminologist a new and more appropriate perspective for empirical research and theoretical consideration (cf. LEMERT, 1951; SELLIN, 1938; SUTHERLAND, 1945).

This paper will not attempt a full bibliography or a systematic review of the deviance approach to the study of delinquency. A number of excellent summary reports serving this purpose have been published recently (cf. CLINARD, 1963; COHEN, 1966; LEFTON et al., 1968; LEMERT, 1967; WILKINS, 1964). In addition, an international conference (Ninth Conference of Directors of Criminological Research Institutes, Council of Europe — Strasbourg, 1971) has recently been devoted to this process of stock-taking, and several very informative reports of the current state of research were presented there (see FERRACUTI & NEWMAN, 1971; KUTSCHINSKY, 1971; VERSELE, 1971).

The present paper will rather:

- (i) critically re-examine the concepts involved in dealing with crime and deviance;
- (ii) study the interrelations between the two concepts and
- (iii) proceed to the construction of a new model of deviance, crime, and social control.

Finally, this model will be applied in considering

- (iv) factors encouraging deviance.

The multi-disciplinary character of the subject of criminology inevitably limits the area of knowledge an individual researcher can aim to cover on his own. In the present paper the deviance-and-crime issue will be approached from the point of view (and with the methodological equipment) of a psychologist studying crime, the dominant approach being that of differential and social psychology. The legal issues are taken up separately by Dr. VÉRIN in his report to this conference.

1. The basic concepts: deviant, criminal

In English the terms *deviant* and *criminal* can both be used in two ways, only one of which seems scientifically sound: they serve either as adjectives (as in: criminal act, deviant behaviour) or as nouns (as in: he is a criminal, he behaves like a deviant). Each term implies a classification of observable features with respect to a (more or less explicit and more or less objective) criterion of judgement. *Deviant* refers to the classification « different from the standard », and there are degrees of deviance depending on the extent of this difference, and different kinds of deviance depending on the nature of the standard of reference employed (e.g. deviance with respect to sexual practices, intellectual deviance, or deviance in dress). *Criminal* refers to the classification « punishable by the state » (1), and different subclasses of *criminal* are distinguished by reference to the relevant section of the legal code according to which punishment is or will be meted out by the state. *Deviant* and *criminal* are necessarily synonymous if the standard of classification for deviance is identical to the totality of non-punishable vs. punishable acts. What is important is that both classifications are *behaviouristic* ones since the standard of reference is expressed in behavioural terms (engaging in certain sexual practices, exceptionally good or poor performance on intellectual tasks, dressing in a specific way, stealing, committing murder,

(1) Restricting the use of *criminal* to « punishable by the criminal law » would exclude white-collar criminality, for example (cf. SUTHERLAND, 1949).

etc.). Therefore, used properly, both *deviance* and *crime* are applicable only to instances of behaviour. (2)

In contrast, the use of *deviant* and *criminal* as nouns implies a classification of people into *deviants* and non-deviants or into *criminals* and *non-criminals*. This, however, implies a typology (of two distinct sub-populations of people: those who commit crimes and those who do not) which is behaviourally an over-generalization and empirically an erroneous *Menschenbild*. The present author does not know of a single study on *self-reported crime* that does not give evidence to the fact that the commission of criminal acts is a *continuous quantitative* variable for most of the acts concerned, with no neat separation of people into two groups: those who do and those who do not (cf. for example, HOOD & SPARKS, 1970, esp. chapter 2). On the whole, the distributions are of type A rather than type B in Figure 1 — with the possible exception of some rare serious crimes.

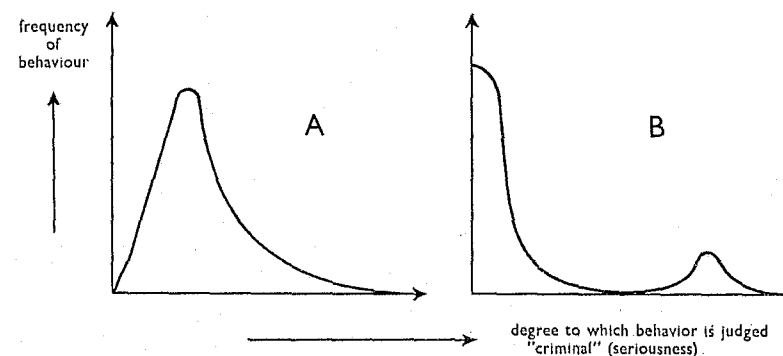


FIGURE 1

Alternative types of frequency distributions of criminal and non-criminal behaviour

A Typical unimodal distribution found in studies on self-reported crime and in victimological research

B Bimodal distribution implied in typological thinking about crime

In the present paper questions of deviance and crime will be dealt with solely in behavioural terms. A model will be presented which is thought to clarify certain major variables operating in these classifications of behaviour and in their social control. Before this can be done a few remarks on the interrelation of the two systems of classification are necessary.

(2) This, however, does not exclude the fact that in such classifications of behaviour situational, personal, or other circumstantial evidence may have to be taken into account as well.

2. Interrelation of the concepts of deviance and crime

For some decades the sociological criminologist has been making a plea for crime to be dealt with in terms of deviant behaviour (and its underlying factors) rather than from the legal (especially criminal law) point of view. WILKINS (1964), for example, discusses crime and social reaction to it within such a frame of reference. More recently the deviance approach has also received attention outside the social sciences proper, and it seems at times as if *deviance* has in fact even been adopted as a more general concept, superseding that of *crime*, with crime being viewed as a special case of deviance.

This, however, is starting on the wrong foot. Logically, the relationship between deviance and crime can be any depending on the relationship between the respective standards of classification. If the two standards are made identical (i.e. if *deviance* simply refers to behaviour which is deviant according to the rules of societal punishment) *deviance* and *crime* necessarily become tautological, and one construct dispensable. Conversely, if the two standards differ, deviance and crime will be correlated only to the extent that the standards are correlated over different behaviours. Figure 2 provides a simple graphical illustration of this point. Behaviour falling within the boundaries of the left-hand circle is classified as *deviant*; behaviour outside this circle is classified as *non-deviant*: the same applies to the right-hand circle with respect to the classification into *criminal* and *non-criminal* behaviour. The common area where the two circles overlap contains behaviour which is both deviant and criminal — but behaviour may also be judged deviant without being criminal and behaviour which is not deviant may be judged criminal. Obviously the amount of such conceptual overlap is a function of the behavioural correlation of the respective standards of classification.

Let us, for example, consider *deviant* as being defined in terms of the criterion of middle-class rules of conduct, behaviour being classified as deviant if it differs from the model behaviour serving as the rule of conduct of middle-class people. In this case, exceeding the speed limit on city streets, for instance, would not be called deviant although this same behaviour, if recorded officially, is liable to state punishment and thus has to be classified as criminal. Conversely, homosexuality among consenting adults may still be considered deviant according to middle-class standards even if no longer prosecuted by law.

Figure 2 is still an oversimplification, however. Quite often one and the same kind of behaviour is judged in relation to several criteria of evaluation, depending on the social role and social class of the person exhibiting this behaviour, and on situational, temporal, regional, urban/rural and other circumstances. Thus, regional, social class, and other

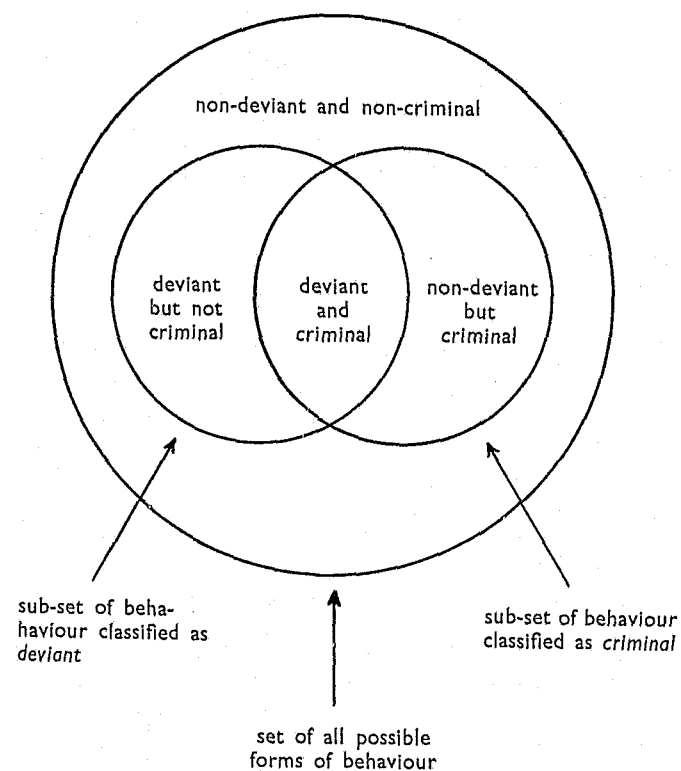


FIGURE 2
Graph illustrating the relationship between the two concepts *deviant* and *criminal*

subcultures also differ in their views of what is regarded as deviant behaviour. And in addition to this within-culture variability there is a large between-culture variability in the criteria for deviance and crime (cf., for example, SUTHERLAND & CRESSEY, 1960, p. 15 f.). To be realistic, figure 2 should be redrawn to show many different, only partly overlapping circles for each concept. With such great variability in behaviour norms vis-à-vis one common set of legal norms even within a given culture (3), attempts to account for crime in terms of deviance are futile. This leads to the conclusion that the traditional covariance

(3) In the case of individuals exhibiting multiple sub-culture membership, multiple roles etc., the different norms may even be in conflict within one individual, the [same behaviour being both deviant and non-deviant, depending on its judgmental context.

hypothesis (of penal law and social norms) is untenable, and that mechanisms of behavioural deviance cannot explain why people commit acts which are classified as crimes. And instead of trying to account for deviance and crime *per se* on the level of behaviour, the scope of analysis will have to be extended to include the variables underlying the societal mechanisms of behaviour classification and control. This will be attempted in section 3.

3. A model of social systems with respect to deviance and crime

3.1 Basic assumptions

The model maintains that the working of a social system can be described by a *utility model* (4) of social action.

Let:

a_i = a certain state of affairs of social relevance (e.g. someone committing a certain crime);

r_{ij} = a particular societal reaction r_j to this state of affairs (e.g. sending the offender to prison for two years or handing him over to a psychiatric hospital for medical care);

p_{ij} = the conditional probability that r_{ij} will occur in response to a_i , so that $\sum_j p_{ij} = 1.00$;

v_i = value (positive, zero, or negative) of state of affairs a_i (if a_i is a crime, v_i will generally be negative, as crime means costs to society);

v_{ij} = value (positive, zero, or negative) of societal reaction r_{ij} to a_i (if a_i is a criminal act and r_{ij} the reaction to this offence, v_{ij} will be positive if this reaction (e.g. imprisonment of the offender) represents a gain to society, zero or negative or otherwise);

c_j = costs incurred by society in executing reaction r_j costs of imprisonment, of running hospitals, etc.).

(4) See, for example, WALD (1950) for a general treatment of utility theory and decision theory.

It is required that v_i , v_{ij} , and c_j be measured along the same quantitative scale (which need not be a monetary one). If

p_i = the probability that state of affairs a_i will occur (e.g. that a bank robbery will be committed, and

n = the number of times a decision has to be made as to which societal reaction r_j , if any, is to be selected (i.e. frequency of occurrence of a_i requiring a decision as to social action),

the model maintains that, as n becomes a large number, a societal system has to behave in such a way that the overall utility

$$U = n \sum_i p_i v_i + (n \sum_i p_i \sum_j p_{ij} v_{ij} - n \sum_i p_i \sum_j p_{ij} c_j) \quad (1)$$

is at least non-negative. Obviously this assumption is a necessary prerequisite for a societal system to be able to continue its specific way of functioning can no longer be sustained owing to lack of resources. (5)

Let us briefly examine some components and properties of this model, beginning with the *value parameters*: Ideally, the value variable v_{ij} ought to be positive, that is society should gain something from reacting to a_i with measure r_j . Such gains could come from reduced recidivism on the part of the offender who has been subjected to «treatment» r_j , the general deterrence effect of measure r_j (reduction in the frequency of that crime and thus reduction in expected future societal losses from that crime), the value of behavioural improvement due to therapeutic r_j , etc. As to the control reactions r_j , five major classes of reaction will deserve special attention:

- (i) *penal measures*: punishment in the sense of penal law;
- (ii) *non-penal legal measures*: compensation of victims by virtue of civil law, administrative legal action, etc.;
- (iii) *non-penal therapeutic measures*: psychological, psychiatric, psychotherapeutic or other therapeutic treatment intended to change the offender's behaviour or behaviour disposition;
- (iv) *non-penal educative measures*: ways of re-educating the offender towards the societal standards in question (e.g. special training, special education, etc.);

(5) A stronger formulation would actually require U to become a maximum relative to the variables in (1).

- (v) *non-penal social and environmental change measures*: action initiated with the aim of changing the social or other environment so as to reduce the likelihood of future deviation from the various behavioural norms (for example: therapeutic community approach, building city streets in a way which would preclude automobile-pedestrian accidents).

Each of these five types of social action is based on a different « theory » of the behaviour a_i which it seeks to control, viz. that this behaviour can be conceived as being

- (i) criminal and therefore requiring to be *punished*;
- (ii) socially harmful, though not criminal, and therefore requiring to be *compensated* for;
- (iii) due to poor mental and/or physical health, and therefore requiring *treatment*;
- (iv) due to insufficient knowledge or education, and therefore requiring special *education*;
- (v) due to inadvertent social-environmental circumstances, and therefore requiring *environmental support*.

The (implicit or explicit) *decision process* in the social control of deviance and crime has to serve three functions:

- (i) to decide which behaviours a_i are to be subjected to the control process;
- (ii) to decide which reactions (kinds of control) r_j are to be selected; and
- (iii) to decide on the probabilities p_{ij} connecting behaviour and the respective control measures.

Cross-cultural comparison leads one to conclude that decision (ii), the *choice of control measures*, is primarily a function of the technological-economic-scientific level of a society. Young cultures or cultures suffering from economic pressure tend to restrict control to punitive measures; as technology, economy and science develop, non-punitive legal measures, therapeutic, educative, and environmental-change measures seem to be added to the punitive measures in that order — subject to the restrictions of non-negative utility pointed out above.

The probabilities p_{ij} originating from type (iii) decisions describe the *strategy of control* in a given social system. Proper decisions of type (i) have received little attention so far. They are, however, of special relevance to the deviance-versus-crime issue this paper is concerned with. For example, given inadvertent probabilities for acts a_i and/or inadvertent values and costs, there may be no solution to equation (1) yielding a non-negative U . In this case a society will either have to improve on the costbenefit side (increase v_{ij} and/or reduce c_j) or change its *tolerance level* with respect to a_i .

3.2 *Deviance and crime: four standards of behaviour classification, the conflict model*

The general social control model presented in section 3.1 presupposes a society of but « minimum rationality »: The direct and indirect gains from social control must at least equal the losses due to deviance and crime plus the cost of executing that control. We shall now consider the behavioural classifications underlying social control.

Different people behave in different ways, even under apparently identical circumstances. Behavioural variability is in fact a very general phenomenon which holds true for all species, human and infrahuman (see, for example, ANASTASI, 1958) (6). And deviance and crime are no more than special cases of such individual variation. Therefore, the causal factors underlying deviance are the same as those responsible for the variability of behaviour in general; to this must be added the dynamic interplay between these factors and the aforementioned variables of social control, including social perception and labelling. This interplay is mediated through social *behaviour classification standards*. For our present purpose four such standards are relevant. Each implies classification with respect to a different judgmental criterion, viz.:

- (i) the true or *real behaviour distribution*: the statistical distribution of the behaviour variable in question, e.g. the frequency distribution of shop-lifting (how many, say, 30-year-olds have done it once, twice, etc.?)
- (ii) the presumed or *image behaviour distribution*: the distribution of the above behaviour variable as conceived by public opinion:

(6) In the following we shall restrict ourselves to behaviour for which individual differences are of a continuous quantitative nature (i.e. differences in the extent, degree, intensity, severity, and frequency of the behaviour in question), although a parallel derivation could be given for discontinuous and for quantitative behaviour variables as well.

- (iii) the required, permissible, or *norm distribution*: the distribution of the same behaviour variable, subject to the requirements or restrictions of social norms and to their application in practice. Legal norms are an important special case;
- (iv) the presumed or *image norm distribution*: same as (iii), but as conceived by public opinion, as to what is required by, or permissible according to, social norms. It reflects the way these norms are internalized in a given culture.

Example: Figure 3A gives the real behaviour distribution (7) for the variable «speed when driving a car along a city thoroughfare»; we assume this distribution to be normal Gaussian. It shows that, on the average, people drive at 62 km/h, with a standard deviation of about 10 km/h. The image behaviour distribution is given in Figure 3B. According to this second graph public opinion assumes that people at about 60 km/h (i.e. a little closer to the maximum speed permitted by traffic regulations). The major difference, though, is a drastic reduction in standard deviation in comparison with 3A, public opinion underestimating the actual extent of behaviour variability. Figure 3C gives the norm distribution for the behaviour in question. With a speed limit of 50 km/h and regulations prohibiting excessively slow driving this distribution should be positively skewed and exhibit a sharp break at 50 km/h. However, general traffic regulation enforcement policy tends to allow for speed excesses of up to about 10%. The curve thus falls off in a less abrupt manner to the right of 50. Finally, Figure 3D gives the probable image norm distribution in this case; it differs from 3C in mean value, public opinion on driving norms appearing to be more permissive about excess speed than are the law and the law enforcement authorities.

Obviously, behaviour can be deviant with respect to one, several or all of these four criteria — and *deviance* has an entirely different meaning in relation to each of the four criteria: actual statistical deviance, presumed statistical deviance, behaviour which does not conform with the norms, and behaviour which is presumed not conform with the norms. These distinctions are important for three reasons:

1. — Criminological literature abounds with sophisticated treatises on the probable causes of deviance. Etiological factors held responsible for deviance in the past included *medical factors* (abnormal character development, psychiatric or neurological disorders), *psychological factors* (personality factors, early childhood influences, family and other socialization

(7) All the distributions given are fictitious examples set up for illustrative purposes only.

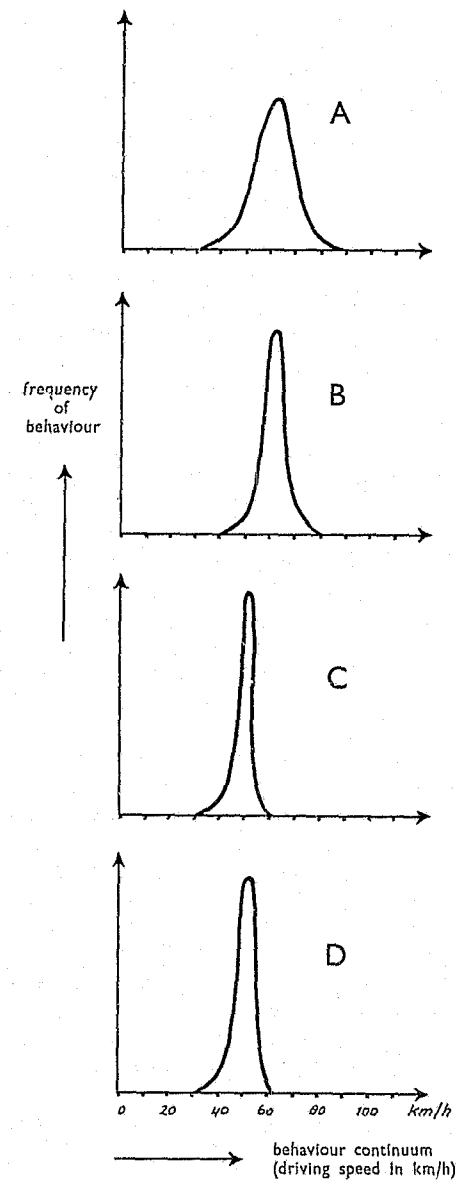


FIGURE 3
Four different standards or criteria for behaviour classification

influences, law awareness and law acceptance), *social factors* (differential association with sub-cultures, social class influences, social roles, the acceptance or rejection of social status) and what might be called *societal factors* (anomie, the cultural lag hypothesis). The debate on their relative contribution to deviant behaviour overlooked that there may also exist a « differential association » between these putative deviance factors and the different deviance criteria: Medical and psychological factors will be instrumental in the development of deviance with respect to the true behaviour distribution criterion, social factors seem to be most influential in deviance in terms of the image behaviour distribution and the image norm distribution, while societal factors may play a major role in deviance with respect to actual norm distribution criteria.

2. — For certain types of behaviour only certain distributions may be known or considered relevant. Thus, for many crimes we have little knowledge about the real behaviour distribution (an issue known as the dark-figure problem of criminology); conversely there are instances of behaviour for which norms either do not exist or are not accepted or understood in a uniform way. It is of paramount importance for behavioural criminology to carry out further very careful empirical research into this matter before using deviance as an explanatory concept in the field of crime.

3. — Only simultaneous data on all four kinds of criteria will enable the criminologist to deal effectively with the prevention and treatment of deviance and crime. He will also require data on the nature and degree of the variability in each of the four distribution criteria for different subsections of a social system (age groups, the sexes, occupational groups, social classes, regional groupings, etc.).

From a scientific point of view, this model is more powerful and flexible than a one-distribution model (cf. WILKINS, 1964), for example). It also takes account of different forms of *social conflict with respect to deviance and crime*. As illustrated in Figure 4, public opinion may on the one hand err with respect to the actual behaviour distribution (conflicting self-image) or with respect to the actual norms (conflicting image of norms), and on the other hand — and this is more important in our present context — the real behaviour distribution or the image behaviour distribution may differ from the norm distribution for that behaviour. This constitutes a *conflict between norms and behaviour*: people behave differently (or think they behave differently) from the way they ought (or think they ought) to behave. And it is this conflict of norms and behaviour which gives rise to social control. We shall show that the kind of control exercised by society varies with the specific features of this conflict. Principally there are three major types of conflict between norms and behaviour:

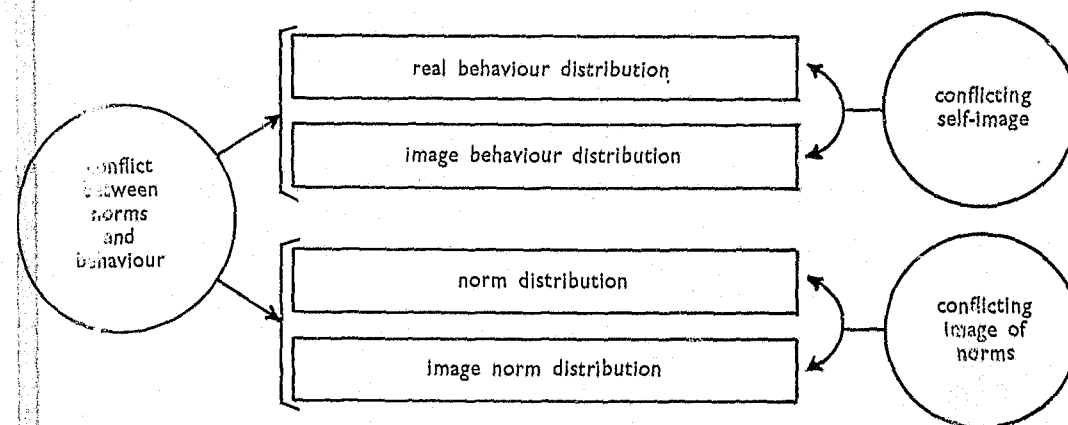


FIGURE 4
A schema of three kinds of conflict in behaviour evaluation

(1) *Type I conflict*: the behaviour norm coincides with one extreme of the behaviour continuum and the norm distribution has a different mean, median, and mode than the behaviour distribution. This seems to be the case, for example, for various property offences; the norm requires that we never take, use without permission, keep or damage anything belonging to another person. In contrast, according to the research on self-reported crime both the real and the image behaviour distribution seem to be (symmetrical or asymmetrical) distributions of a sizeable standard deviation and to have a mean deviating from the extreme behaviour required by the norm. The norm distribution itself may be rectangular or J-shaped (8). A steep rectangular norm distribution indicates a stricter norm (or a stricter application of the norm) than in the case of a J-shaped norm distribution. The latter will be obtained if in certain (e.g. extenuating) circumstances some slight deviation from the ideal norm is still tolerated (for instance, petty theft of food committed by a poor and hungry adolescent).

Figure 5 illustrates various forms of this type I conflict between norms and behaviour. The behaviour continuum (abscissa) may be any behavioural dimension (frequency or intensity of an act) correlated with an aspect of seriousness, harmfulness, or simply evaluation as good or bad behaviour. In Figure 5A the behaviour norm is strict (rectangular distribution) and requires behaviour at the lower end of the continuum. The behaviour distribution overlaps the norm distribution to a consider-

(8) A distribution is called J-shaped if its mode (frequency maximum) coincides with one of the extremes of the behaviour continuum.

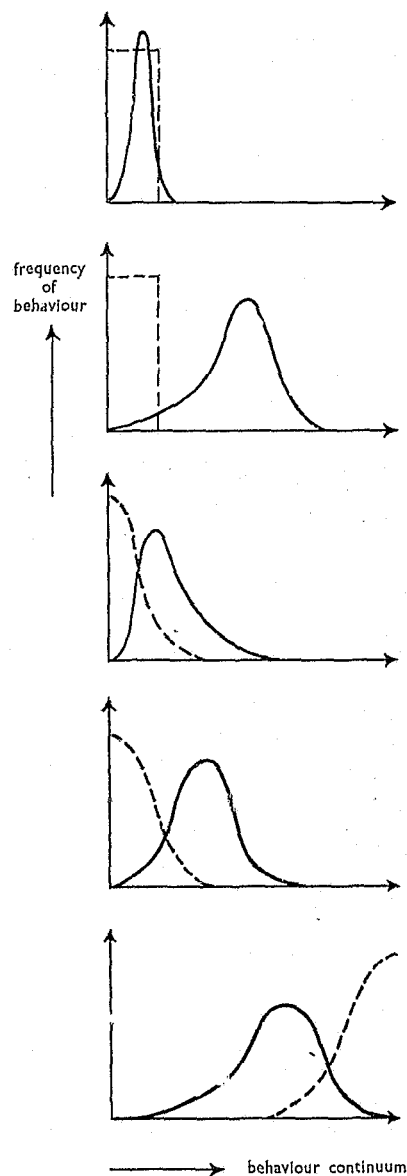


FIGURE 5
Five examples of a type I conflict between norms and behaviour
Broken Line : norm distribution
Heavy Line : behaviour distribution

able extent. The resulting conflict is thus smaller than the one shown in Figure 5B. In Figures 5C and 5D the norm is less strict (J-shaped norm distribution); 5C illustrates a mild conflict and, 5D a serious one. Finally, Figure 5E illustrates the coincidence of the norm with the higher end of the behaviour continuum (e.g. the religious norm of doing good for one's fellow man). Irrespective of the shape of the norm distribution, Figures 5A and 5D illustrate symmetrical behaviour distributions, and 5B, 5C, and 5E asymmetrical behaviour distributions.

(2) *Type II conflict*: the behaviour norm coincides with one extreme of the behaviour continuum, but norm distribution and behaviour distribution do not differ in central tendency (mean, median, or mode). In such a case, typically behaviour distribution will be an extremely skewed, or even J-shaped, distribution of the same mode as the norm distribution but with a different mean, median, and standard deviation (average deviation of cases from the mean). This seems to hold true for behaviour resulting in the infliction of physical or psychological injury on others, i.e. various forms of assault, indecent assault, causing bodily harm, offensive behaviour, etc. In type I conflicts between norm and behaviour the most frequent behaviour (i.e. the mode of the behaviour distribution) is in accordance with the norm, but both the mean or median behaviour and the standard deviation of the behaviour distribution are outside the norm distribution.

Figure 6 gives examples of such type II conflicts between norms and behaviour. In 6A the two distributions have the same mode and median, in 6B only the same mode; in each case the behaviour distribution has a higher mean and standard deviation. In 6C a behaviour distribution is shown in conflict with a particularly strict (or strictly applied) norm.

(3) *Type III conflicts*: the behaviour norm refers to an intermediate section of the behaviour continuum somewhere between the two extremes. For example, one must neither exceed the speed limit nor drive so slowly as to impede the traffic. The conflict can take various forms depending on the form of the behaviour distribution and that of the norm distribution (cf. Figure 7).

Finally there is yet a fourth type of relationship between norm distribution and behaviour distribution which, however, no longer gives rise to conflict. In this *type IV* relationship the norm distribution is rectangular (or nearly rectangular) over the total range of the behaviour continuum (see Figure 8 for an example). This is the case with behaviour continua for which there is no (or no pronounced) social norm so that, from a normative point of view, each section of the continuum is equally admissible and thus equally probable. Rectangular or nearly

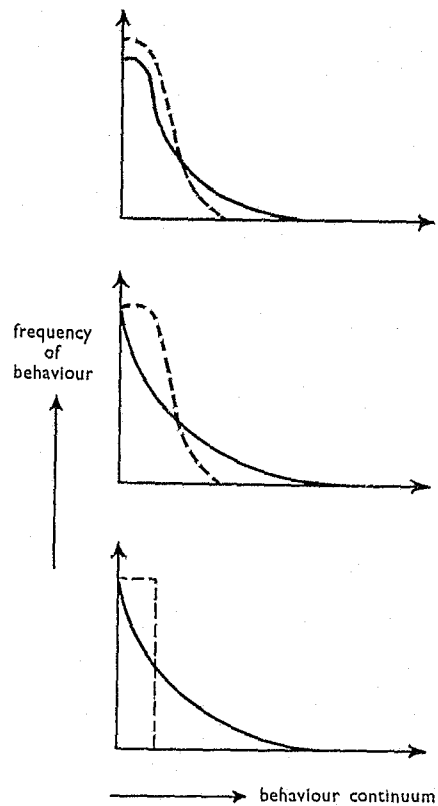


FIGURE 6
 Three examples of a type II conflict between norms and behaviour
 Broken line norm distribution
 Heavy line : behaviour distribution

rectangular norm distributions indicate complete or nearly complete liberalization for that behaviour continuum. For example, voting behaviour in public elections has rectangular norm distributions in free democratic societies. Other things being equal, this liberalization of behaviour is one of the signs of societal evolution: the higher the evolutionary level of a social system the larger the number of behaviour continua that have become liberalized in this manner. Religious affiliation, once the case of collective warfare and individual praise or punishment, but today liberalized in free societies, is one example; the growing tolerance of other races and cultures is another. At the present time the liberalization of various kinds of sexual and sex-related behaviour is occupying the attention of several European countries.

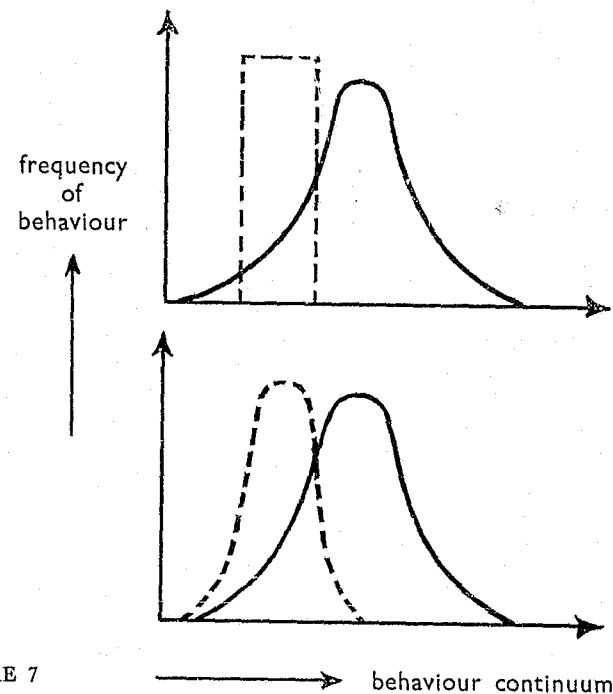


FIGURE 7
 Two examples of a type III conflict between norms and behaviour
 Broken line : norm distribution
 Heavy line : behaviour distribution
 (Explanation in the text)

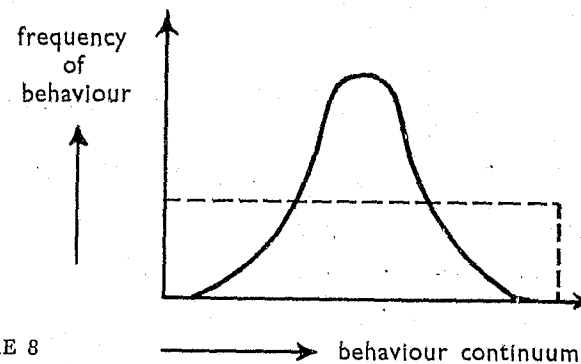


FIGURE 8
 The type IV relationship between norms and behaviour: the case of complete liberalization
 Broken line : norm distribution
 Heavy line : behaviour distribution
 (Explanation in the text)

3.3 Resolution of the conflict between norms and behaviour:
an expanded model of social action and control

We now are in a position to expand the basic propositions of section 3.1 into a more complete model of social action and control with regard to deviance and crime. We have said earlier that a social system has at its disposal a range of alternative measures or reactions to those behavioural states of affairs which it wishes to control because of their negative value for some, many, or all of its members. Each of these measures results in a value (v_{ij} from reacting to a_i by r_j), and each measure also results in costs (c_j). In this case the minimum rationale for the social action of such a system is to select the behaviours to be controlled to select the control measures, and to devise a control strategy (given by probabilities p_{ij}) in such a way that the costs, the positive and the negative values will at least balance out evenly over all actions of the social control. Now the developments of section 3.2 allow us to further explicate this model with respect to the societal decisions involved in devising such a control strategy. We shall do this in six main statements and some corollaries:

- (i) Economic and technological conditions, together with other cultural determinants, give rise to a certain *value system* in a society.

Also the values v_i of behavioural state of affair a_i and the values v_{ij} of the control measures are determined by and expressed within the framework of this value system. They change with changes in technology, economics, or the culture of the social system (cf. the value of stealing food in war time as compared to the value given of that same behaviour in prosperous times of peace).

- (ii) As far as the values of behaviour are concerned, the value system gives rise to *social norms* of behaviour.

- (iii) For each behaviour continuum the first term on the right-hand side of equation (1),

$$vf_i = \sum_i p_i v_i, \quad (2)$$

defines a *value function* for the consecutive scale points i of this continuum.

The value function gives the *expected value* (expected gain or loss) of behaviour up to point i of the continuum. It is a monotonically increasing function of i . Similarly, value functions can be defined for the continua of control actions.

- (iv) For each behaviour continuum a *tolerance threshold* (critical value of vf_i) is set by society, subject to the required non-negativity of U in equation (1).

Thus, if there were only one behaviour continuum to be controlled, the tolerance threshold would be identical with that point a_i along the continuum at which the bracketed term in equation (1) first exceeds the respective value function for that behaviour. With more than one behaviour continuum to be subjected to control the tolerance threshold for each continuum obviously has to be set with reference to all other continua and any simple change in one tolerance threshold is likely to affect all the other thresholds. The same holds true of changes in the value system and the range, value and costs of control actions.

- (v) If the value function of a given behaviour does not exceed the threshold criterion, that behaviour continuum ought not to be subjected to social control (liberalization according to type V). Conversely, all behaviour whose value function exceeds the tolerance threshold will give rise to *social action* aimed at resolving this conflict between norm and behaviour. The resulting social action is called *social control* if the resolution of this conflict is sought by changing behaviour so as to make the behaviour distribution converge towards the norm distribution. Alternatively, if the conflict is resolved by changing the norm to conform more closely with the behaviour distribution, social action will take the form of *legal reform* (e.g. decriminalisation), a *change in the value system* and/or *law enforcement*. In this process the tolerance threshold ought to be subject to a continuous re-evaluation resulting from the choice of measures of social action.

- (vi) The form of *social control* (the choice of control measures r_j) depends also on the *type of conflict* prevailing between norm and behaviour.

The typical reaction to type I and III conflicts will be either non-penal measures of social control or less severe forms of punishment. In type I conflicts a decrease in statistical overlap between the behaviour distribution and the norm distribution will necessitate very high tolerance thresholds and/or low-cost control measures.

Non-controlling action such as legal reform and decriminalization will have to be considered as serious alternatives. With behaviour resulting in high losses to society, educative and environmental change measures may be the only practical means of control (cf. road safety and traffic offences).

Conversely type II conflicts account for much of what is known as «traditional criminality», and punitive measures are the traditional form of social control in dealing with them. Very little is known about the value function and relative costs of these control measures, particularly in comparison with the value functions of the behaviours subjected to such control.

4. Factors encouraging deviance

There can be little doubt that the model of deviance, crime and social reaction presented in the preceding section of this paper may not be complex enough in some of its assumptions and may deal rather superficially with the dynamics of the various individual and social forces involved. On the other hand, the model may already look quite difficult and complicated enough owing the number and nature of the parameters introduced and their inter-relationship in determining practical social action. But one lesson to be learned from a more careful study of the mechanisms of behaviour, social opinion, social norms and their enforcement is that our traditional way of concept formation in this field should undergo a healthy broadening of perspective. The characteristics of deviance and crime are open to serious misinterpretation if deviant and criminal behaviours are explained solely in terms of the factors operating on the part of the individual offender. In addition to the organic, psychological, and sociological factors which cause people to differ in their behaviour, there are the mechanisms of behaviour classification and control explained above, which operate in a social system at large, and which determine whether certain forms of behaviour cause social concern and are given labels such as deviance and crime. Because of this dynamic interplay it is correct to say that, everything else being equal, a social system will indeed manifest the extent and kind of deviance and crime which it has «decided» to «have» — i.e. through its decision as to how it should classify and react to its members' behaviour. This fact should be taken into account in the study of factors encouraging deviance.

The model presented in section 3 also illustrates how little empirical knowledge we actually possess about the major variables operating in this field. We are not in a position to describe the respective social mechanisms even in terms of this model, simplified as it may be. All we do know is the norm distributions for those norms which have become legal norms. We have little systematic knowledge of other norm distributions and their variability, and of image norm distributions, let alone of the real and image behaviour distributions and their variability in relation to social indicators. One has to fully comprehend this fact in order to be aware of how wide a gap there is between our actual knowledge

about deviance and crime on the one hand and criminological and other theorizing about these phenomena on the other. «More data and less theory» may be a healthier point of view for the years to come. This is especially true of putative etiological factors of deviance which have an important effect on prevention and treatment policies. This point may be illustrated by the following examples.

Rapid technological development has been assumed to encourage the frequency and extent of deviance. The cultural lag hypothesis of sociological criminology would make this a plausible assumption. On the other hand, we have no systematic data to hand to verify this hypothesis in a scientifically conclusive manner. The development of a «youth society» in recent years has certainly transformed norm distributions as they are accepted by teenagers and young adults. But how far is this development actually a deviation by the young away from the rest of the population and how far is it a two-sided affair, with each side having its own specific motivation?

Or consider the mass media and their possible influence on deviance and crime. Films shown on television may induce imitative aggressive behaviour on the part of the viewers. Experimental psychologically studies of overt aggressiveness in children following the TV presentation of aggressive films (westerns, crime films, etc.) give evidence to the contrary however: the films did not increase either the frequency or the intensity of aggression in these children (cf. FESHBEIN, 1971). Obviously imitation learning cannot be the whole story, and these studies also showed why this is so. Most of the children in the experiment maintained a certain «cognitive distance» from the medium and content of the TV films. In addition, the effect of the films was much more of the need-fulfilment kind (satisfying one's own aggressive tendencies by temporarily identifying with aggressive behaviour in a non-committal socially accepted situation) than of the need-arousing one (stimulation of aggressive motives due to watching other people's aggressive conduct) (9). We have no systematic information, however, on the statistics of these psychological effects of mass media and on their covariation with different social indicators.

This list could easily be continued at length. The few examples given, however, suffice to illustrate the point in question: Since social norms and the utility of social action (with respect to a certain system of values) determine what is regarded as deviant and criminal and how this behaviour is to be controlled, stereotypes and belief systems will play

(9) Similarly, pornography is reported to have become less of a problem in Denmark since its liberalization.

an important part in the perception of such behaviour. The criminologist, the penologist, and the legislator will all be open to such influences as well, as long as there is no relevant objective evidence available. So the second lesson to be learned from section 3 is the tremendous importance of objective data on deviance and crime (both from a scientific and from a socialplanning point of view) and of knowing where to look for it.

The third and final, but not least important, lesson concerns the working of social control itself. The application of a utility model such as the one explained above the first step towards a rational evaluation of the benefits of the system being studied. Estimates of the respective behaviour distributions, values and costs will enable the strategy of control and the implicit tolerance thresholds to be tested with respect to the minimum requirement of non-negative utility. This in turn will enable practical criminology to evaluate the degree of rationality and efficiency of our existing system of social control in the various areas of deviant and criminal behaviour. And it will enable the scientist to specify his model and improve his understanding of deviant behaviour and the way society reacts to it.

SUMMARY

This paper investigates deviance, crime, and their respective social control from a strictly psychological, i.e. behavioural approach.

In sections 1 and 2 evidence is presented to the fact that *deviance* and *crime* are but partly overlapping concepts of behavioural classification depending on the degree and nature of the standards of reference employed in each classification. Deviance refers to behaviour which differs from a standard, crime refers to the classification of behaviour according to the criterion «punishable by the state». The nature as well as the explanation of behavioural deviance is complicated by the fact that the same behaviour is likely to be judged and evaluated simultaneously with respect to several different standards of reference, depending on the age, sex, and social class of the person showing this behaviour and of the person evaluating it. Thus, the same instance of behaviour may be deviant or not, depending upon circumstances.

In section 3 a model is presented which maintains that the working of a societal system can be described in terms of a utility model taking into account the values and costs of the behaviour to be controlled and of the respective control measures. The minimum assumption for such a model is non-negative utility so that values and costs will at least balance out even. On the substantive side five classes of control measures are distinguished and three kinds of decision processes underlying these control procedures. It is maintained furthermore that social control will take place whenever there is a conflict between actual behaviour and any of the four different standards for behavioural classification set out in the text, given that the value of this behaviour exceeds a certain tolerance level set by societal decision. Depending on the kind of the conflict and the nature of the behavioural standard involved a different control procedure will be enacted. Also the explanation of deviance (and for that matter: of crime) will have to differ with the standard of reference against which a behaviour is judged.

In the final section 4, the model is applied in indicating the kind of empirical data required for theoretical criminology and for practical criminal policy. Emphasis is given to the need for empirical research on the four types of behaviour distributions developed in the text, on the social tolerance threshold and — most important — on the decision processes and social control strategies underlying traditional penal procedures.

LITERATURE

- ANASTASI, A. *Differential Psychology*. 3. Ed. New York: Macmillan, 1958.
- CLINARD, M. B. *Sociology of Deviant Behaviour*. Rev. Ed. New York: Holt, Rinehart and Winston, 1953.
- COHEN, A. K. *Deviance and Control*. Englewood Cliffs: Prentice Hall, 1966.
- FERRACUTI, F. & NEWMAN, G. « Clinical and Psychological Perceptions of Deviance ». Council of Europe, Strasbourg: *9th Conf. of Directors of Criminol. Res. Inst.*, 1971.
- FESTINGER, L. *A Theory of Cognitive Dissonance*. Evanston: Row Peterson, 1957.
- FESHBACH, S. & SINGER, R. D. *Television and Aggression*. San Francisco: Jossey-BASS, 1971.
- HOOD, R. & SPARUS, R. *Key Issues in Criminology*. London: World University Library, 1970.
- KUTSCHINSKY, B. « The Perception of Deviance: A Survey of Empirical Research ». Council of Europe, Strasbourg: *9th Conf. of Directors of Criminol. Res. Inst.*, 1971.
- LEFTON, M., SKIPPER, J. K. Jr., & McCAGHY, C. H. (Eds.) *Approaches to Deviance*. New York: Appleton-Century-Grofts, 1968.
- LEMERT, E. M. *Social Pathology*. New York: McGraw-Hill, 1951.
- LEMERT, E. M. *Human Deviance, Social Problems, and Social Control*. Englewood Cliffs: Prentice Hall, 1967.
- SELLIN, T. « Culture Conflict and Crime ». *New York: Soc. Sci. Res. Bull.*, 41, 1938.
- SUTHERLAND, E. H. « Social Pathology ». *Am. J. Sociol.*, 50, 1945, 429-436.
- SUTHERLAND, E. H. *White Collar Crime*. New York: Holt, Rinehart & Winston, 1949.
- SUTHERLAND, E. H. & CRESSEY, D. R. *Principles of Criminology*. Philadelphia: J. Lippincott, 1960.
- VERSELE, S. C. « Perception of Deviance and Criminality: Legal Aspects ». Council of Europe, Strasbourg: *9th Conf. of Directors of Criminol. Res. Inst.*, 1971.
- WALD, A. *Statistical Decision Functions*. New York: Wiley, 1950.
- WILKINS, L. T. *Social Deviance. Social Policy, Action, and Research*. London: Tavistock, 1964.

REPORT no 3

ORIGINAL: ENGLISH

The Perception of Deviance and its Treatment

by

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THE PERCEPTION OF DEVIANCE AND ITS TREATMENT

CONTENTS

- A. The Concept of Deviance
- B. Traditional Reactions Towards Deviant Behaviour
- C. «New» Forms of Deviant Behaviour
- D. The Genesis of Deviant Behaviour
- E. New Forms of Treatment
- F. Clashing Cultures
- G. Summary and Conclusions

A. THE CONCEPT OF DEVIANCE

It is a remarkable fact that a learned society consisting mainly of penal lawyers, organizing a congress that is meant primarily for people working in one of the legal professions, should want to occupy itself with a theme as broad as «deviance».

The concept of deviance is an evasive one which has been defined in at least two fundamentally different ways:

(a) Deviant behaviour is behaviour which violates institutionalized expectations (COHEN (1)), departs significantly from the norms set for people in their social statuses (MERTON (2)), and does so sufficiently to exceed the tolerance limit of the community (CLINARD (3)).

(b) Deviant behaviour is behaviour so labelled (BECKER (4)), it is not a property inherent in certain forms of behaviour but rather a result of creative and successful action by social control agencies (ERIKSON (5)); it is the product of the responses of the conventional and conforming members of the society (KITSUSE (6)).

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- (1) COHEN, A. K., *Deviance and Control*, Englewood Cliffs, N.J., 1966.
 - (2) MERTON, R. K., *Social Theory and Social Structure*, New York, 1968 (1957).
 - (3) CLINARD, M. B., *Sociology of Deviant Behaviour*, New York, 1968 (1957), p. 22 (quoting C. G. van VECHTEN, 1940).
 - (4) BECKER, H. S., *Outsiders*, New York, 1963.
 - (5) ERIKSON, K. T., *Notes on the Sociology of Deviance*, in: *Social Problems*, 9, p. 308, 1962.
 - (6) KITSUSE, J. I., *Social Reactions to Deviant Behavior*, in: *Social Problems*, 9, p. 253, 1962.

Both categories of definitions have their weaknesses, but before we go into that, it should be explicitly noted that deviance according to either type of definition encompasses a much larger set of (norm-transgressing or labelled/stigmatized) acts than even the most fanatic and repressive of penal lawyers could possibly want to deal with.

Criminal and delinquent behaviour, even if we consider it very broadly, including pre-delinquent acts and also acts that just happen to have been considered criminal at a certain time in a certain place, only form a small and diminishing subset of all the behaviour that might somewhere, in certain conditions, be regarded by certain people as deviant.

The sick, the mentally ill, the crippled, the manifestly neurotic, the aged, the young, foreigners, social upstarts, intellectuals, artists, geniuses, women, social reformers, mystics, in short anyone who is not that hypothetical male, WASP («white, American, sane and protestant»), may be considered and in certain circumstances treated as a deviant person, manifesting deviant behaviour. And that, of course, is far more than any penal lawyer who is not a sociologist would want to bother himself with.

So when penal lawyers talk or write about deviance, what they really have in mind is probably deviance with respect to the present local *penal law*: deviance in the form of criminality, or behaviour bordering on it, if the behaviour has not been criminalized yet: behaviour possibly analogous to crime as we define it.

This implicit restriction with regard to «deviance» is no problem among lawyers, but it might create a social problem if the general public came to regard deviance as something equivalent to, or resembling criminal behaviour. So let us declare from the outset, that what we really have in mind at this congress is: *deviance in relation to the penal law and the penal system*.

The definition of deviance according to type (a) mentioned above, thus implies in the restricted sense that deviant behaviour is behaviour which violates antecedent penal law (or norms that are possibly due to be formulated as penal norms) and that exceeds the tolerance limit of the penal system.

We then immediately run into difficulties. Thanks to empirical dark number studies (7), it is by now a well-known fact that practically all

(7) For a first overview of dark number research by interviewing potential actors see, e.g., GOLD, M., *Undetected Delinquent Behavior*, in: *Journal of Research in Crime and Delinquency*, 13, pp. 27-46, 1966.

This type of research has recently been done among students in Holland by R. JONGMAN, of Groningen University.

Dark number research by interviewing potential victims of unreported crime is now being done by J. P. S. FISELIER, at the Criminological Institute of Nijmegen University.

of us now and again commit acts that are infringements of penal norms. But only a very small minority of those who commit criminal acts are detected, prosecuted and convicted, i.e. come to be known as criminal deviants (and come to be considered as people for whom treatment in some form or another seems necessary).

What is clearly lacking in definition (a), when used in the restricted sense of interest to penal lawyers and criminologists, is that *chance* and *perceptibility* play a major roll in determining whether or not a person shall be considered deviant with respect to the law. (We also know that the penal treatment, be it repressive or very humane, once applied, tends to work as a deviance-amplifier (WILKINS (8)). These considerations might make us more towards a type (b) definition.

But the other type of definition, which stresses not so much the activities of the performer as the influence of her or his fellow-humans in the creation of deviance, also has its drawbacks. It does admit more insight into the fact that any penal law system is a rather arbitrary and highly selective system. It does draw our attention to activities which are often overlooked the selecting, labelling and stigmatizing of certain people by the community, and the human need to create scape-goats (CHAPMAN (9)). But it seems too easy a solution of the very real differences between, say, a sadistic murderer, a professional burglar, a compulsive arsonist, an occasional shop-lifter, a person infringing some minor traffic regulation, a hippie sleeping out in the streets and industrial polluter.

Whereas the definition of deviance according to type (a) would — at least when applied to criminology — imply a distinction between people that just does not exist to that degree in reality, a definition of type (b) would imply more similarity than there really is.

Roth SARTRE (10) and RYLE (11) drew attention to the fact that to be, say, potentially a «great writer» does not mean very much if one never writes anything great during one's lifetime. To be potentially a big-time thief and a ruthless murderer, which we may probably are, is still very far removed from actually committing acts.

Though the labelling process may be inconstant arbitrary and selective, there are still distinctive stimuli that may elicit the selective responses, and not all of us provide of the same stimuli for the labelling community.

The dilemma that either definition of deviance confronts us with — particularly if we want to narrow it down to *criminal deviance* — has been indicated in criminological literature, by some authors at least.

(8) WILKINS, L. T., *Evaluation of Penal Measures*, New York, 1969.

(9) CHAPMAN, D. H., *Sociology and the Stereotype of the Criminal*, London, 1968.

(10) SARTRE, J. P., *L'être et le Néant*, Paris, 1961 (1943).

(11) RYLE, G., *The Concept of Mind*, London, 1962 (1949).

The two most important proposed solutions to the dilemma are the following:

- (A) To make a clear distinction between deviant *acts* (which all of us commit from time to time) and a deviant *identity* (which is the product of « visibility » and labelling);
- (B) To treat only *secondary deviance* (deviance that has come to be used as a role, as an adaptation mechanism for self-defence, reaction-formation etc., i.e. as a reaction to the community's reaction to primary deviance) as « the real thing ». (12)

Both proposed solutions still fall down in one important respect: if we consider a person deviant (or for that matter secondarily, that is « seriously », deviant) it implies that she or he is behaving according to the rules of some subculture.

(A deviant is, of course, not without norms, although he does not behave according to the dominant norms in a certain context. The subculture is a system of non-dominant norms which she or he, for some reason or other, allows to prevail.) But is there really one dominant culture with a hierarchy of several subcultures « under » it? Or should we admit that part of our dominant (legal) norm is also the expression of the interests of certain dominant group(s) and that what we tend to define as deviance may be, partly, subcultural behaviour in the traditional sense, partly the expression of very realistic alternative norms and values, in the interests of groups of people other than those that draw up the law?

The concept of deviance as such, regardless of how it is specified, seems to imply a kind of harmony model that is further removed from empirical reality in our pluriform, dynamic modern society than a conflict model (in which there would be no room for the concept of deviance) might be.

We shall come back to this point later.

B. TRADITIONAL REACTIONS TOWARDS DEVIANCE

It seems superfluous to note what the traditional reactions towards deviance have been in the past and which traditional reactions still prevail. The catalogue of ancient and modern penal sanctions, from torture and imprisonment to therapy and the fine, is familiar to us all.

Both the general public's reaction towards deviance (whether defined as criminal or not) and the institutionalized legislative and peniten-

(12) LEMERT, E. M., *Social Pathology*, New York, 1951.

tiary reactions demonstrate, however, several common fundamental traits. In practice there is, of course, a very real difference between the burning of a witch, the banishing of a person considered dangerous, the imprisonment of a small-time thief, and the therapy imposed upon a compulsory arsonist. Yet all of these vastly different reactions do resemble each other in a few important respects. The traits that they have in common are (the order is arbitrary):

- (a) they create a distance between the deviant and the community, making the deviant into « different kind of person »;
- (b) they isolate the deviant from the community by some physical means or other;
- (c) they mark the deviant more or less permanently, using methods ranging from physical branding (as employed even in World War II by the Germans), to verbal labelling, and social stigmatizing. In short they make the deviant into a scapegoat (CHAPMAN (7)).

It is indeed very remarkable that the same fundamental traits are present in both very ancient and very modern reactions towards deviance. Even the most modern and enlightened reaction towards deviance, therapy by medically qualified persons instead of primitive sanctions by legally qualified ones, still show very clearly the same three traits of (a) dichotomizing people into « us » and « them », (b) isolating the deviants in preferably distant and rural spots (behind thick walls and windows or at least in an isolated house in a big park) and (c) labelling and stigmatizing them more often than not for the rest of their lives (regardless of the degree of inadaptation for which they were treated) as ex-patients, if not permanent psychopaths.

The common traits in what are on the face of it very distinct forms of reaction towards deviance, have led sociologists to look for the « function » (manifest or latent) that deviance has for a community.

One of its primary functions has already been noted by DURKHEIM (13), one of the founding fathers of sociology, who wrote: « *Crime brings together upright consciences and concentrates them. We have only to notice what happens, particularly in a small town, when some moral scandal has been committed. They stop each other on the street, they visit each other, they seek to come together to talk of the event and wax indignant in common. (. . .) there emerges a unique temper (. . .). That is the public temper* ».

(13) DURKHEIM, E., *The Division of Labor in Society*, New York, 1965 (1933). Original French edition: *De la division du travail social*, Paris, 1893. The quotation stems from BOX, S., *Deviance, Reality and Society*, New York/London, 1971.

Some examples of collective white-collar crime are environmental pollution, misleading advertising, trust formation, bribery, illegal manipulation of the price system, discrimination against groups of employees on physical grounds (coloured people, women, both coloured and white), and illegally using early inside knowledge about the rise and fall of the stock-market to one's advantage (this has recently been criminalized in the U.S.A.).

Some examples of professional (individual) white-collar crime are fraud, bribery, abuse of information (see above), abuse of power and medical crime.

III *Real innovations*, are, for example crime in connection with organ transplantation, data-banks, intrusion on privacy by means of new electronic devices, hijacking aeroplanes.

It should be noted that the dynamic, cultural explanation for new types of criminal deviancy mainly applies to crimes of category I (those traditional crimes that may really or apparently have increased), whereas category III has arisen from geniusly new technical possibilities for committing crime and from technical changes in the environment, whereas category II is less a matter of the person committing the act than of a change in consciousness among the general public. What was formerly not recognized as criminal behaviour at all, either because of its relative insignificance or because of its imperceptibility or simply owing to traditional thinking may now become criminalized through a new awareness of its danger to the common welfare and its deliberate, pernicious immorality.

D. THE GENESIS OF DEVIANT BEHAVIOUR

Anybody wishing to explain and predict deviant behaviour (a rough description of some important types of which, old and new, has been given above) will have to rely on empirical research and its theoretical interpretation, or, thereafter is not yet available, on pre-empirical theoretical models (19). Of course one can try to explain and predict deviance on the basis of experience and common sense, as most older lawyers would tend to do. This may lead to more or less fortunate trial and error reactions to deviance in an attempt to control it. From the very poor results of traditional types of reaction to criminal deviance (maybe not as a general preventive measure but as a means of re-adapting the

(19) For the methodological status of models, typologies, hypotheses, theories, explanation, prediction, etc. (at least in one interpretation) see DESSAUR, C. I., *Foundations of Theory-Formation in Criminology: a Methodological Analysis*, The Hague, 1971.

deviant person (20)), one gets the impression that it would be useful to attempt to work out a scientifically sound method of explanation and prediction. This in turn means that, since traditional lawyers have not been trained to carry out or even critically read empirical research, they will have to rely on information from criminologists who have been trained in behavioural sciences.

What kinds of explanation do criminologists have to offer with regard to deviance, how can these explanations be reformulated as predictions, and in which way do these explanations and predictions lead to a possibly more effective way of controlling (criminal) deviancy?

Let us start by declaring that the main problem of a penal lawyer is hardly the treatment of those people who, owing to severe psychotic disturbances, cannot adapt themselves to the proscriptions and prescriptions of the penal law, and for whom the exigencies both of everyday behaviour rules and of the specific penal norms of any time or place are beyond their emotional and/or mental capacity. Though, as a sociologist, one might wonder whether social mechanisms had any role in their mental and emotional disturbance, we shall here omit this category of deviants for simplicity's sake and only look into the behaviour of supposedly psychologically normal, responsible people. (For a sociological approach to the mentally disturbed deviant see SZASZ (21)).

What is the matter with mentally « normal » people who commit deviant acts? From a sociological point of view there are, as we know already from the definition of deviance in chapter 4 above, two main classes of explanation: those that stress the individual origin of deviance and those that stress its environmental origins.

We shall first take a closer look at the several genetic explanations, their possible empirical corroborations and their implications for social control.

(1) Genetic explanations of deviance stressing the abnormality of the individual.

The two main categories of genetic explanations of deviant behaviour are the *biological* and the *psychopathological*.

From a biological point of view, certain anomalies in a person's genetic and/or physiological make-up lead to behaviour that is unacceptable to a given society. People who for some biological reason are more inclined to aggressive behaviour than is usual in our (already rather aggressive, male-dominated) society, may easily find themselves in con-

(20) WILKINS, L. T., *opus cit.*

(21) SZASZ, T. S., *The Myth of Mental Illness*, New York, 1961, and also: *ibidem*, *Ideology and Insanity*, New York, 1970.

flict with the penal law, especially when traditional outlets like war and pioneering are blocked. Whether such people exist in significant numbers, is, however, doubtful, given the long years of social training between the original biological predisposition and the final clash with the dominant culture, and given the various outlets and sublimations that even an extremely high potential for aggressive behaviour may find.

The most recent biological explanations of certain forms of deviancy are, however, more subtle. They do not stress so much the abnormality of some constitutions, as the essentially normal, natural and more or less instinctive reactions of (some) people to unnatural circumstances. The overcrowding — aggressiveness hypothesis of ethologists is a good example of recent biological trends in the explanation of (some) deviant behaviour (22).

From the psychopathological point of view, deviant behaviour is explained in various ways. Psychodynamic (Freudian and neo-Freudian) theories say, in essence, that either a person's subconscious, asocial or anti-social strivings have become unusually strong through some process or other, or the other, more conscious psychological processes that normally keep the *Es* (or *Id*) impulses under control, have remained or become unusually weak through some process or other. For a much more detailed exposition of the various psychodynamic standpoints (often mutually contradicting) and some fundamental criticism of them all, see DESSAUR (23).

Other psycho(patho)logical explanations are of the behavioural type i.e. people who behave deviantly (which is equated with wrong behaviour in this case), have been conditioned wrongly for some reason or other (24).

Or they are of the frustration-aggression type (a compromise between Freudianism and behaviourism) i.e. frustration (none too well defined) leads to aggression (also not very well defined).

For a full survey of both the biological and the psychodynamic, so-called « control » theories of deviancy, see A. K. COHEN (25).

Notwithstanding the very heavy criticism that may be levelled at these « control » theories in general from a methodological and/or theo-

(22) For an introduction to ethology on aggression see: LORENZ, K., *On Aggression*, 19 (original German edition: *Das Böse Zur Naturgeschichte elementarer Verhaltensweisen*, München, 1970).

(23) DESSAUR, C. I., *opus cit.*, Chapter V: *Some Current Types of Criminological Explanation*.

(24) This is theoretically the behaviouristic assumption (PAVLOV; SKINNER). Applications of it are to be found in what is generally termed « behaviour therapy », which is advocated (for criminals) by among others, H. J. EYSENCK.

(25) COHEN, A. H., *opus cit.*

retical point of view (or even because of their, often implicit philosophical-anthropological assumptions (26)), it is easy to see how they might be put the use if one believed in them (even if only partly or only for practical reasons).

If it is true that the human male is, among all the higher species, the only intra-specific aggressive and even outright murderous (half-) genus, then special measures could be taken to create socially acceptable outlets for his aggression, and teaching and training should be explicitly aimed at the sublimating of aggression, especially for the less gifted.

On the other hand, individual psychological deviancy should be coped with by individual therapeutic measures and individual prevention (the latter by means of information for parents and teachers, among others, on how to educate young people in optimal *Id*-control).

We shall revert to the treatment theme more extensively in the next chapter of this paper. Let us first examine what kind of theoretical reaction the so-called control-theories of deviancy evoked.

(N.B. These control theories themselves may be seen as a reaction to rationalistic Enlightenment trends (the so-called Classical School) in criminological thinking. Control theories drew attention to the fact that it may take more than quick, severe and consistent punishment to deter people from committing crimes. The irrationalistic roots of human behaviour were stressed and the foundations were laid for the present penal policy of holding many criminals not, or only partly, responsible for their deeds.)

(2) Genetic explanations of deviance, stressing the strains and culture conflicts in society.

The strain theorists' assumptions, most prominently heralded by the American sociologist R. K. MERTON (27), are identical with those of the control theorists in so far as they tend to take for granted *one* dominant value system for any given culture from which it is possible to deviate. However, when trying to explain behaviour in terms of deviant norms or striving for deviant goals, they are not looking so much for strains within the individual but for strains in her or his surroundings. At the root of their theory of deviance lies the philosophical-anthropological belief that people, far from being « essentially » asocial or anti-social by nature, want to conform and are motivated to manifest behaviour

(26) DESSAUR, C. I., *Het Sociologische Mensbeeld*, in: WENTHOLT, R. (ed.), *Het Mensbeeld in de Wetenschappen*, Rotterdam, 1972 (?) (forthcoming). (An expanded English version of this article, entitled *Fumina Sociologica*, is in preparation.)

(27) MERTON, R. K., *opus cit.*

that is as well adapted to present standards as circumstances will permit them.

It is predominantly owing to the lack of legitimate means to achieve dominant cultural goals (e.g. prosperity, power, status in the U.S.A.) that people become (criminal) deviants. Others may find a solution in consciously rejecting the dominant cultural goals (that happen to be unattainable for them) and become (criminal) deviants out of (unconscious) spite.

The strain theory, in its most well-known form the anomie theory and its derivatives (such as CLOWARD and OHLIN's differential opportunity theory (28)), is in essence a social harmony model including the (superficially conflict) concept of social scarcity.

Social control attempts which accept this attitude towards deviancy should be primarily of a macro-social kind, creating more opportunities for more people or indoctrinating people with the belief that there are alternative cultural goals which are equally as laudable as the scarce dominant ones. Marxism, which because of its stressing of scarcity concepts has often been thought to represent a real conflict model within sociology, does offer in criminology a point of view that is fundamentally similar to the harmony of anomie-theorists.

In the final and optimal communist society there will be no more crime, it is believed, because all people will agree on the goals that are striven after, and there will be no lack of opportunity for anyone to achieve the legitimate goals which are suited to her or his position and talents. Even today crime in Russia, either « does not exist » or it is a remnant of « bourgeois mentality » that will eventually die out by itself.

Both Mertonians and Marxists, by accentuating the role of scarcity and social strain in the genesis of deviance on the one hand, and by their belief in the fundamental unanimity and ideological equality of people on the other, would inspire penal policy makers to take the same kind of measures in treating and trying to prevent deviance. Both could convince the policy-makers of the essential futility of traditional treatment (the prison or psychiatric institution) with regard to the macro-social causes of (criminal) deviance. Both ought to lead, if pursued to their logical end, to political measures beyond the merely temporary and partial individual ones, to fight deviance.

In contrast to the excessively optimistic and rationalistic Classical School of Criminology, in contrast to the stressing of man's asocial animal nature by control theorists, but also in contrast to the (scarcity-creates-tensions-in-a-by-nature-harmonious-society) model of strain theorists, there are the viewpoints of those sociologists who explain the genesis of deviance by (sub)cultural (deviant) social learning processes. The main

(28) CLOWARD, R. A., and LL. E. CHLIN, *Delinquency and Opportunity*, New York, 1966 (1960).

exponent of this school of thought has been SUTHERLAND (29), whose ideas have been modernized and refined by many disciples, partly by the integration of his original « differential association » theory with concepts from role-theory, as attempted for instance by GLASER (30).

According to the theorists of the cultural deviance school criminal behaviour is learned in exactly the same way as conforming behaviour, namely through social learning processes. In so far as deviant learning processes, leading to deviant values and norms, are learned through parents and teachers, there is some correspondence between cultural deviance theorists and psychodynamic control theorists. However, most of the criminologists in this school would prefer to stress learning processes through other agencies than parents and teachers. In particular they drew attention to the overwhelming importance of peer groups in the genesis of youthful gang behaviour (most juvenile delinquency is committed in larger or smaller groups and only rarely by the individual alone).

Apart from specific peer groups which may teach deviant values and norms, there is also for instance, the lower class as a whole, with its subcultural values and norms (as compared to those of the dominant middle and upper classes) which may lead to a proportionally greater lower class participation in crime (statistics). (See MILLER (31) on this point.)

On the other hand, there is also a point of similarity between cultural deviance, theorists and strain theorists as opposed to control theorists. The former two both believe that cultural factors are responsible for the genesis of crime, whereas control theorists — in a modernized version of the *Fall of Man*, now described in biological and/or psychological jargon — see crime as an innate tendency of humans.

If these cultural deviance theorists are right, the social control of deviance should be attempted through offering young people especially « good » possibilities of association and identification, in short the traditional youth work approach would be most appropriate in the treatment and prevention of crime.

The bewildered jurist, confronted for the first time with the several more or less contradicting explanations of deviant behaviour, may wonder how social control of (criminal) deviance is to be effectively and efficiently attempted if the scientists do not agree on its causes.

(29) SUTHERLAND, E. H. and D. R. CRESSEY, *Principles of Criminology*, Philadelphia, 1966⁷.

(30) GLASER, D., *Criminality Theories and Behavioral Images*, in: *Am. J. of Sociol.*, 61, pp. 433-445, 1956.

(31) MILLER, W. B., *Lower Class Culture as a Generating Milieu of Gang Delinquency*, in: *J. of Social Issues*, 14, pp. 5-19, 1958.

To be really efficient and effective in the treatment and prevention of (criminal) deviance one should both know the factual manifestations of deviant behaviour very thoroughly (see Chapter C above for an attempt at a schematic description) and have some insight into its causes. (See this chapter for a perforce extremely succinct indication of some of the most important attempts at explanation. The literature given in the Notes should certainly be consulted if further and more detailed information about them is required.)

There is perhaps a way out of the labyrinth of conflicting explanations (and thus predictions) of deviant behaviour, namely by testing them empirically in so far as they are only pre-empirical models or hypotheses derived from these models. This testing has been done, is still being done and will continue to be done by criminologists trained as social scientists and might eventually lead to an empirically well-founded theory that could be as effective a means of social control as physical theory (founded on tested hypotheses) is a means of controlling physical nature.

However, as every scientist knows, it is a long way from the first attempts at empirical testing of hypotheses to unambiguous results.

Further, most penal policy-makers, having been trained in the traditional way as jurists, are not able to read empirical research reports and the conclusions based on them, let alone read them critically.

And last but not least, at the present time only a few initial attempts have been made to test explanatory assumptions empirically; the trend today is leading away from careful fundamental research and towards rapid solutions for (partial) *ad hoc* problems.

For penal policy-makers, whose task it is to take decisions *now* the completion of a sufficient amount of empirical testing and its translation into everyday language may take too long.

It seems that one very important thing for penal policy-makers to do is to start by reading as much of the scientific literature on criminal deviance as they are able to; their practical experience will then show them that it is absolute nonsense to speak of either deviance or crime as *one* category of behaviour. Both the explanations indicated so far, and the attempts at testing them empirically, have, often implicitly, been directed towards very specific and very diverse sub-categories of criminal behaviour.

The application of specific knowledge to specific forms of deviant behaviour would raise social treatment above the level of the physician whose cure for all « illnesses » was to bleed all his patients.

It should also be remembered that even the most ancient of criminological perceptions, those of the rationalist Classical School, contained the germs of a humanist approach that are sometimes lacking both in the irrationalist mechanistic psychodynamic schools of thought and in the sociological « social robot » school of thought (humans seen as being entirely determined by their social circumstances and surroundings).

To the extreme control theorist the human individual is essentially an irrational animal, to be conditioned in more social direction.

To the extreme sociologist, motivation of the human individual stems from her or his social periphery instead of from within.

Neither philosophy allows for autonomous individuals, deliberately and freely electing for an alternative culture (system of norms and values) be it either more or less noble than the dominant one (the ethical hierarchy of course as seen from the standpoint of the speaker).

The latter category of deviants (and their treatment) will be discussed in a separate and final Chapter F of this paper.

E. NEW FORMS OF TREATMENT

For many years already there have been movements in modern democratic societies to humanize penal treatment. Efforts have been in one or more of the following directions:

(a) Traditional punishment is, at least in Holland, reduced to the very minimum. Nearly three quarters of the penal law infringements that are brought to the knowledge of the public prosecutors are not prosecuted at all for one reason or another. But then at the police level too there is very great discrepancy between the number of penal cases reported and the number of cases brought to the knowledge of the judiciary. Furthermore what comes to the knowledge of the police is only a small fraction of all the cases that the public might have reported. What is more, if prosecution and conviction do take place, there is a strong tendency to send only recidivists to jail (for relatively short periods in comparison with most other countries) and to take other, less drastic measures such as imposing fines and/or supervision if at all possible.

(b) To take into account the psychological and/or biological and/or social factors that may have helped to a greater or lesser extent to drive a criminal to certain kinds of penal norm infraction. For the outright « compulsory » acts (32) or for those that seemed more or less inevitable in the circumstances, there has been a growing tolerance, especially among (younger, better educated and more enlightened) lawyers. In a way the feelings of the general public towards many types of criminals (including in European terminology « young delinquents ») are more vindictive and repressive than those of the judicial establishment.

(32) For a sociological critic of the concept of compulsory crime see: CRESSEY, D. R., *Role Theory, Differential Association, and Compulsive Crimes*, in: CRESSEY, D. R. and D. A. WARD (eds.), *Delinquency, Crime, and Social Process*, New York, 1969 (pp. 1114-1128).

Psychologists, social workers and/or psychiatrists are often consulted before and during the trial, and their help may be sought afterwards, either in traditional prisons or in penal treatment institutions, (some of the very intensive care type, such as the Van der Hoeven Clinic at Utrecht or the Pompe Clinic at Nijmegen, to give two Dutch examples), or during « probation » and after-care.

(c) Recently there have been some hesitant attempts to give young delinquents especially a chance of « alternative » treatment. Special prisons for young people have been introduced, as well as a kind of « training camp », roughly of the *Outward Bound School* type, with peripheral group therapy (33).

(d) Under progressive governments a fairly large amount of money has been voted for youth work, recreational facilities and social work, no doubt partly (if most implicitly) intended as a means of prevention of crime and delinquency.

(e) Decriminalizing former « crimes » by removing them from the ambit of penal norms and sanctions, either by abolishing the penal norms (homosexual acts between consenting people over the age of 16 (Holland); pornography (Denmark); abortion (England)) or by transferring the norms from the penal law to the realms of civil, administrative or disciplinary law.

Two important things should be noted. Firstly, the term « treatment » has been used here in a very broad sense, including not only, say, psychological/psychiatric treatment, but also prevention, decriminalization and alternative measures such as, e.g., a penal training camp for the young. In short « penal treatment » has been used here as equivalent to « penal reaction » in one form or another, including even prison treatment.

Secondly, though the trend is very much towards the reduction of traditional crime (decriminalization; no prosecution at all if possible), other « new » crimes are creeping in.

In a modern, complex society many more laws, including penal laws, are needed to regulate social behaviour than was formerly the case. Furthermore white collar crimes and crimes born of new technical possibilities (see C above) are generally inflating the potential criminal population.

From a scientific point of view the following questions are relevant:

- (33) E.g.1. in Holland the penitentiary training-camp for male youths on short sentences « *The Corridor* », at the town of Zeeland in the province of North Brabant.
2. in the U.S.A.: the Highfield project.

CONTINUED

1 OF 2

(1) Given a certain classification of present crimes, which types of treatment are presumed to be the most adequate per category?

(2) Given some theoretical explanations of the genesis (and epidemiology) of crime, which types of treatment are in accordance with which type of theoretical (causal and predictional) thinking?

(3) Given the possibilities for empirical evaluation of several types of treatment, which have proved « the best » (according to which criteria)?

(4) Could one, either on the basis of theoretical and empirical knowledge, or by extrapolation of experience so far, guess which potentially effective types of treatment are at present still not employed?

Question (1) The following table is intended solely as a basis for discussion.

TYPE OF CRIME	POSSIBLE CATEGORY	TYPE OF TREATMENT
Aggressive crime	Biological anomaly Psychological anomaly Social anomaly (e.g. overcrowding) Ideological anomaly	Medical treatment Psychiatric treatment Social improvements (preventive) ? (Perhaps prison)
« Moral » crime	Blasphemy; insulting behaviour; pornography; prostitution; homosexuality; abortion; soft drugs; suicide	Decriminilization
Property crime	Need « Kicks »; the need to belong (namely to the gang) Ideological anomaly	Social improvements (preventive) Retribution to victim(s) + psychological treatment (Perhaps prison)
White-Collar crime	By individuals; by public enterprises	Demotion, fines. Fines; nationalisation or stade supervision. Closing down
Against humanity	Discrimination; exploitation, war	?

Question (2) What can be done by the judiciary?

The judiciary machinery has a limited range of punishments from which to choose its reaction to a legally unwishable act.

(A) The discussion about what sort of *treatment* should be prescribed begins at the very highest — the legislative — level. At this level decisions may be taken to decriminalize certain offences and to recognise the fact that certain types of behaviour (e.g. drug-taking, pornography, homosexuality and abortion) are fundamental human freedoms.

(B) At the next level there is the executive (the police, the Department of Public Prosecutions, the judiciary, the prison system and the rehabilitation authorities).

Many of these branches can make a contribution to *treatment*.

(1)* The police only came into the scene at a fairly late stage in criminological literature. Up to now criminology has been almost exclusively concerned with the convicted delinquent. In fact there is no thought of *treatment* until the delinquent has been tried. The penal reaction has, one might say, been compartmentalized (DUSTER (34)). In other words up to and during the trial every organ of the judicial system is more occupied with proving the punishable act and declaring the offender to be guilty. During the whole of this phase the accent is on the proof of the moral turpitude of the offence and the offender. Only when this phase is completed is attention devoted to a possible « humane » execution of the sentence. In the case of the Netherlands this is not entirely true as — in contrast to other countries — a fair number of diagnostic and advisory reports are made by psychiatrists, psychologists and rehabilitation officers *before* the trial.

One reason why the police have been given so little attention is because we have always considered the judge to be the most important *decision-maker*. In fact the judge only weighs up on a fine scale the raw — selected — material presented to him or her by the police and the Department of Public Prosecutions.

Research has shown (e.g. the recent work by JONGMAN (35)) that the methods of the police are very selective (lower classes).

The whole process would be more humane if the police were to remedy this selectiveness. Another point concerning the police is that they are eager to complete a case as quickly as possible. Often this means that fundamental rights are violated. In the Netherlands for example it is complained that the police often submit a request for remand in custody

* This section was originally compiled by my assistant F. C. M. DENKERS, a socio-psychologist - C.I.D.

(34) DUSTER, T., *Mental Illness and Criminal Intent* in: PLOG, S. and R. EDGERTON (eds.), *Changing Perspectives in Mental Illness*, New York 1969 (pp. 523-537) (about compartmentalization of the judicial organs).

(35) JONGMAN, R. W., *Ongelijke kansen in de Rechtsgang*, Assen, 1972. (Study of the theory of and literature about, amongst other things, the selective policy of the police.)

in the interests of investigation into the case. These requests are then allowed by the „Rechter-Commissaris” (examining magistrate) more than should actually be permitted.

During interrogations at the police station there are also very often cases of inhumane treatment. It is not sufficiently borne in mind that the person arrested is only a suspect.

Yet it is at this stage that it is important that the reaction of the police should be equitable, as that can create fertile ground for later readiness on the part of the suspect to be influenced by other organs of the penal system.

(2) The department of Public Prosecution: In the Netherlands there exists an « opportunitéitsbeginsel » by which the Department of Public Prosecutions may decide whether the case should go to trial or not (As result it is possible for the Department to decide not to prosecute cases of soft drug use in the Netherlands). Increasing use is being made of this facility. When a case has been dropped in this way there can be no further proceedings and the suspect need fear no penal sanctions, unless fresh evidence is produced.

(3) The Judiciary: the Judge can make a choice between suspended and non-suspended fines. Empirical research (HOOD and SPARKS (36)) has shown that fines and suspended prison sentences are at least as effective as non-suspended prison sentences if the later recidivism is taken as a criterion. There are even indications that a suspended prison sentence is more effective than a non-suspended one (WARREN (37)). It has recently been shown in the Netherlands too (BUIKHUISEN (38)) that the severity of the penalty imposed for driving under the influence of alcohol is not related to the incidence of later recidivism. The upshot of all this is that if the judge's aim is prevention of a particular crime he or she is free to choose and does not impose any severe penalties.

There is however the possibility (and this has hardly been subjected to empirical research as yet) that there is a variation in the general preventive effect. If we are now discussing the humane treatment of

(36) HOOD, R., and R. SPARKS, *Key Issues in Criminology*, London, 1970. (Chapter headed: *Assessing the Effectiveness of Punishments and Treatments*). (Survey of comparative studies on the effectiveness of judicial sanctions. Fines and suspended prison sentences are apparently at least as effective as non-suspended sentences with regard to recidivism. Open institutions are at least as effective as closed institutions.)

(37) WARREN, M., *The Community Treatment Project*, in: JOHNSON, N., L. SAVITZ and M. WOLFGANG (eds.), *The Sociology of Punishment and Correction*, New York, 1970 (pp. 671-683). (Empirical investigation. Suspended sentence accompanied by community treatment is superior to non-suspended sentence.)

(38) BUIKHUISEN, W., *Speciaal-Preventief Effect van de strafmaat bij Rijders onder Invloed*, Criminologisch Instituut, Groningen, 1971.

delinquents and if the aim is general prevention, then it is essential that research should be carried out into whether and to what extent general prevention is effective, for the sake of the individual delinquents who happen to get caught and who become the agents through whom a policy of general prevention is conducted. This is indeed true of all the testable assumptions on which penal policy is based.

(4) Even if the judge is sparing in his imposition of prison sentences (as is increasingly the case in the Netherlands), we are still left with a number of delinquents who are sent to prison. Here too the judge has powers of discretion (although in the Netherlands it is the Prisons Directorate of the Ministry of Justice which decides the type of prison to which a person is sent).

Treatment-oriented institutions are at least as effective as more *punitive* institutions (BAILY (39)). The same conclusion has been reached in the Netherlands (FISELIER (40)) with regard to open and closed prisons.

Whatever the category of the prison, there is, as we have already stated, no difference with regard to recidivism. This is a surprising conclusion. One explanation is that the differences between the different prisons are not yet great enough. The lesson to be learned from this is that the authorities must experiment more with the prison system. The authorities often counter this suggestion by saying firstly that there is no money available and secondly that they are restricted by public opinion.

To the first our reply is, vote for the party which does support a different policy for the treatment of delinquents, and to the second, nothing is known about public opinion. It may be as varied as the delinquents themselves, and the conclusion is that there should be an investigation into public opinion.

The fact that *treatment-oriented* prisons (with staff psychologists, etc.) do not achieve better results in the long run suggests that it is not important what happens to the delinquents *inside* the prison.

It is not so very important whether the regime is strict or flexible and whether there is psychological treatment or not.

What is important for recidivism is what happens to the delinquent

(39) BAILY, W., *An Evaluation of 100 Studies of Correctional Outcomes*, in: JOHNSON, N., L. SAVITZ and M. WOLFGANG (eds.), *The Sociology of Punishment and Correction*, New York, 1970 (pp. 731-744).

(Survey of comparative studies of the effectiveness of different types of prison, particularly *treatment-oriented* as opposed to *punitive-oriented*. It was not possible to show definitely the superiority of treatment-oriented prisons.)

(40) FISELIER, J. P. S., *De betekenis van de open gestichten voor de recidive*, Criminologisch Instituut, Nijmegen, 1969. (Open Institutions are at least as effective with regard to recidivism as closed institutions.)

after his release. There is empirical evidence as WHEELER (41) has found, that the greatest problem with which detainees have to content during their term in prison is the later stigma and discrimination.

Now that the duration of prison sentences has been cut down (at least in the Netherlands) any possibility that the detention as such has any effects, either positive or negative is also, of course, reduced. But the delinquent has been « behind bars » and his biggest problem as an ex-convict is his conflict with society. Treatment of prisoners must be directed towards finding a solution to this problem.

This must be done in the first place by influencing public opinion. But in the second place the detention must serve the purpose of teaching the prisoner how to cope with this conflict (teaching him or her how to apply for a job, and how to come to terms with their ex-convict identity, etc.) The advantage of this is that the detainee is ideally motivated as this is the greatest problem he or she has to face, personally as well as objectively.

The above overlooks what we traditionally understand by « humane treatment », in other words the psychological and psychiatric treatment in prisons. There are namely points on which the latter is open to criticism:

1) It is based on all kinds of unproven assumptions such as the assumption that delinquents suffer from neurosis. Some institutions only have the services of a psychiatrist: this is very typical of this attitude. It may be asked whether the stigma of being « neurotic » is not worse than that of being a thief.

2) Only too often the delinquent is treated as an isolated unit. Modern psychology and psychiatry prefer to pay more attention to social interaction and there is, for example, a trend towards family-treatment. This is not yet so in the prisons although BUIKHUISEN (42), for example, has shown that males convicted of driving under the influence of alcohol are usually beset by marital problems. In such cases the wife should also be treated.

3) It may well be that the application of industrial psychology to

(41) BAUM, H. and S. WHEELER, *Becoming an Inmate*, in: S. WHEELER (ed.) *Controlling Delinquents*, New York, 1968 (pp. 153-186).

(Empirical research among juvenile delinquents. Their greatest problem during their detention is not the strictness of the prison director, or similar problems, but the later stigma.)

(42) BUIKHUISEN, W. en F. DIJKSTERHUIS, *Rijders onder Invloed: Een diagnostisch Onderzoek*, Criminologisch Instituut, Groningen, 1969.

(One of the major problems of offenders driving under the influence of alcohol is the marital situation. The author maintains that the offender should no longer be considered in isolation, and that his or her wife or husband, for example, should be included in the treatment process.)

the penal system is a more urgent requirement than the individual psychology approach. And if clients are to be given psychological treatment on an individual basis then the staff, carrying out an extremely thankless task with a constant decrease in manpower, is probably more entitled to psychological supervision.

4) It is a misconception that psychiatrists and psychologists make the penal system more humane. In the name of treatment they often advise in favour of much severer sentences or adopt far more radical measures than even a traditional jurist. Empirical evidence of this is given by WHEELER (43) and CARTER and WILKINS (44).

This means that the psychological and psychiatric supervision of detainees must continue to be supervised by the judicial authorities. The paradox is that we wish to lessen penalties and criminalization by leaving more to the psychologists; their methods on the other hand seem to call for a control by the judiciary. This eagerness of the psychologists is also an argument against the two-stage process in which behavioural experts would be given the upper hand in the second stage.

Summary: — humane treatment must and can be given by many more organs than simply the prison system (including penal psychologists and psychiatrists) alone.
— humane treatment does not consist only in treating individual delinquents (and their husbands/wives), public opinion should be studied in the interest of the individual scapegoat.

Question (3) Evaluation of penal measures

In the field of penology we are, scientifically speaking, only just beginning to do sound research, or, to quote the famous words of Leslie WILKINS (45), we are as yet only at a stage where « the nature of our ignorance is beginning to be revealed ».

(43) WHEELER, S., et al., *Agents of Delinquency Control*, in: WHEELER, S. (ed.), *Controlling Delinquents*, New York, 1968 (pp. 31-60).

(Empirical investigation. Modern criminal judges trained in criminology who have no wish to follow routine ideas in court impose more severe prison sentences than the more old-fashioned, « traditional » judges. This is done « to cure the offender ».)

(44) CARTER, R. and L. WILKINS, *Some Factors in Sentencing Policy*, in: *Journal of Criminal Law, Criminology and Police Science*, 58, 1967, (pp. 503-511).

(Rehabilitation officers in America are shown to advice more prison sentences than the judges actually impose.)

(45) Quoted by HOOD, R. and R. SPARKS, *Key Issues in Criminology*, London, 1970, p. 171.

Thanks to W. H. NAGEL (46) we possess a complete bibliography of studies in penal prediction, from the beginning of the twentieth century until 1965. Yet, most of the studies in that list could not withstand now the criticism of a statistically and methodologically more sophisticated generation of scientists.

Those studies that are generally sound are often concerned with restricted problems, such as individual prevention (for relatively short periods) for members of relatively small samples. Even so, the problems of general prevention (the effect of penal measures on other potential offenders) have hardly been investigated at all. And the question of the effect of penal measures on the law-abiding section of the public has, with a few exceptions such as DURKHEIM or CHAPMAN, hardly even been considered in theory, let alone investigated empirically.

Technically it is very hard to do convincing research with regard to general prevention, a subject about which (traditional) judges and prosecutors tend to hold fairly rigid views. For literature and criticism see HOOD and SPARKS (47).

Methodologically it is very important to make a sound classification of crimes, before attempting to assess the general preventive effect of penal measures. To quote HOOD and SPARKS, opus cit., who are themselves quoting ANDENAES (48); «Offences of a kind which are typically impulsive, or are committed as a result of emotional stress or mental abnormality — including many murders, assaults and sexual offenders — are presumably less likely to be deterred than rationally planned, purposive crimes against property. Some account must also be taken of general moral and social attitudes towards different crimes; the threat of punishment is probably of little direct importance in inhibiting behaviour such as incest which is widely felt to be repugnant or morally wrong; whereas it may be very important in the case of such things as parking offences or business regulations, for which such moral restraints are not usually present. Much depends, too, on the extent to which the law is enforced, and on the probability of detection and conviction».

In the field of studies investigating individual prevention the first problem is to define criteria for «success» or «failure» for any type of penal treatment. There is great difference of opinion between the various studies about the period of non-recidivism which should be

(46) NAGEL, W. H., *Het Voorspellen van Krimineel gedrag*, The Hague, 1965. (English edition forthcoming.)

(47) HOOD and SPARKS, *o.c.*

(48) ANDENAES, J., *The General Preventive Effects of Punishment*, in: *Univ. of Pennsylvania Law Review*, 114, pp. 949-983, 1963.

taken as a criterion for «success», about what reconversions should be counted/disregarded, and as to whether or not any other criterion but judicial conviction (e.g. self-reported «dark-number» crime after release, or mental change or «social stability») should be taken into account.

Empirical research (49) seems to indicate that a good period to select for possible recidivism is a periode of five years after release. But a follow-up study of much shorter duration can now provide a fair assessment of the probable rate of failures within the next few years.

For the technicalities of comparing several follow-up studies see again HOOD and SPARKS, opus cit., pp. 179-186. As for the results of research to date, I should like to quote briefly some of their remarks:

(a) For many offenders, probation is likely to be at least as effective in preventing recidivism as an institutional sentence. (50)

(b) Fines and discharges are much more, or no less, effective than either probation or imprisonment for first offenders and recidivists of all age groups. (N.B. This does not imply that each and every offender should therefore not be sent to prison. General prevention might thus be diminished and also the crime rate might rise due to the fact that people within prisons and other penal institutions cannot commit any crimes, as a rule.) (51)

(c) Longer institutional sentences are no more effective in preventing recidivism than shorter ones (52). The same remark as in (b) applies here: if the realistic threat of (longer) imprisonment is totally removed, this may affect the crime rate.

(d) The offenders most likely to improve are the «medium risks». Offenders who are already a good risk before treatment, are not likely to improve by any measure taken against them., neither will the very poor risks. (53)

(e) Open institutions are possibly at least as successful as closed

(49) See e.g. McCLINTOCK, F. H. *Crimes of Violence*, London 1963.

(50) See e.g. BABST, D. V. and J. W. MANNERING, *Probation vs. Imprisonment for Similar Types of Offenders - a Comparison by Subsequent Violations*, in: *Journal of Research in Crime and Delinquency*, 2, 1965.

(51) HAMMOND, W. H., *The Sentence of the Court: a Handbook for Sentencers*, London, 1969.

(52) See e.g. WEEKS, H. A., *Youthful Offenders at Highfields*, Ann Arbor, 1958, or: MUELLER, P. F. C., *Advanced Release to Parole*, Sacramento, Cal. 1965. (Research Report no. 20, Research Division, California Dept. of Corrections.)

(53) BERNTSEN, K. and K. O. CHRISTIANSEN, *A Resocialization Experiment With Short-Term Offenders*, in: CHRISTIANSEN, K. O., et al., (eds.), *Scandinavian Studies in Criminology*, 1, London, 1965, pp. 35-54.

ones, though this point is not quite proven yet according to strict methodological standards. (54)

(f) No research has yet produced clear evidence that any specific type of treatment is relatively successful for one type of offender, and at the same time relatively detrimental for any other type. (55)

(g) Most research to date has not been successful in demonstrating different degrees of success with different types of offenders, but neither has it clearly been demonstrated that differential treatment is not correlated under any circumstances with different treatment outcomes (56).

Question (4) Possible new forms of penal treatment.

This point is left for discussion. The chance that more and more sophisticated aversion therapy and/or biological intervention will overtake by surprise the criminological, penological and judicial community engaged in high-minded social discussions, does not seem small to the present author (57). One might consider the necessity of discussing how to prevent (politically) a future predominance of other (scientifically more advanced) sciences than criminology in the field of penal treatment, that seem to disregard the essential freedom of humanity, the innate right for a human person to deviate (see also next chapter).

F. CLASHING CULTURES

One of the painful aspects of the history of (European) criminology is that it has often excelled in studying the lesser crimes, the lesser social problems. Modern criminology, behind its sophisticated mask of grand surveys, subtle experiments, advanced statistics, mathematical models and clever analysis, is still hiding, more often than not, the naive, contented smile of a child of the Enlightenment.

For all their intellectual fireworks and/or obvious humanism and progressiveness, most criminologists tend to be involved, either on their own initiative or as a result of the kind of questions the judiciary or

(54) MANNHEIM, H. and L. T. WILKINS, *Prediction Methods in Relation to Borstal Training*, London, 1955. See also WEEKS, H. A., *o.c.*

(55) See HOOD and SPARKS, *opus cit.*, pp. 198-201.

(56) WARREN, M. Q., *Recent Findings in the Community Treatment Project*, in: *Correction in the Community: Alternatives to Incarceration*, Sacramento, Cal. 1964 (California Board of Corrections, Monograph no. 4).

(57) For aversion therapy (the ethical implications of which for criminality are hardly discussed by its advocates) see: WOLPE, J., *The Practice of Behavior Therapy*, New York, 1969, or: EYSENCK, H., *Experiments in Behavior Therapy*, Oxford, 1964.

the community put to them, with traditional small-time criminals: the pick-pocket, the shoplifter, the unlucky burglar or minor thief, the neurotic crook, the rowdy adolescent, in short the little man in prison, or liable to be sent there.

By largely ignoring white-collar crime (as committed by public enterprises), by ignoring war, the totally institutionalized and, in the upper echelons, even highly rewarded large-scale murder-industry (defining polemology as a subject distinct from criminology proper), by tacitly agreeing most of the time not to discuss political crimes, or the discrimination and exploitation of minorities, or sweated labour for youth, immigrant workers, and women of each and every category, and by glossing over terrorism by the top dogs, the abuse of power by the establishment, by largely ignoring attempts at revolutions (Provo; hippie-culture; Black Power; Female Power), criminologists have for the greater part made themselves the handmaids of those in power in the best of all worlds.

No amount of pleas for decriminalisation and/or depenalisation, or for psychiatric treatment (read: adaptation to things as they are) can conceal the fact that a fair majority of criminologists have themselves been cajoled into spending their working lives studying the fringe problems of society, or feel themselves inclined to study the legal trespasses of the « little man ».

Much criminology is founded on the unspoken assumption that in essence we all share the same set of norms and values, and that those who, either for structural social reasons (see MERTON; MARX) or because of personal deficiencies and problems (FREUD c.s.) or biological anomalies (genetic and/or endocrinological, for instance) fail to conform to those norms and values, should be treated as wisely and humanely; as possible, but primarily by re-adaptation in one form or another to the prevailing norms.

As a first attempt at ending this complacency SUTHERLAND's introduction of (a) the notion of subculture (a non-dominant system of beliefs, norms and values), and (b) white-collar crime into criminology can be seen.

However, as we all know, the study of white-collar crime, except for some haphazard, isolated pieces of research (58), has been far from fruitful. And even the study of subcultures has been subsumed by among others, (e.g. A. K. COHEN (59) who introduced the concept of

(58) See GEISS, G., *White-Collar Crime*, New York, 1968, for an overview.

(59) COHEN, A. K., *Delinquent Boys: the Culture of the Gang*, New York, 1955. Cohen initially thought that lower-class boys, out of frustrated « middle class » ambitions, might resort to « reaction formation », e.g. by wilfully destroying or stealing what they could not expect ever to acquire legitimately. He was severely criticized, among others by MILLER, W. B., *Lower Class* (voor vervolg, zie pagina 108)

« reaction-formation » among the lower classes) to what is essentially a harmony model of society.

Recently W. H. NAGEL attempted to introduce the concept of « critical criminology » (60), at the Criminological Congress held in Madrid in 1970. I quote: « With the possible exception of theologians, criminologists have always been the least critical of all scientists (...). » Further: « The dominant values in our society include: (a) the socio-economic values; (b) the law. (...) the two mentioned above (...) at first sight seem to be of equivalent rank. The difference however is substantial. The socio-economic values (a) are of direct benefit to the dominant groups, but the law (b) has a value on a subservient level: its function is to ensure and preserve the primary dominant values in our society. Value (b) is thus the donkey that value (a) rides. »

The author then stresses the subservient position of criminology to the already subservient law-system and says that « critical criminology will not stand aloof from politics, as criminology persistently used to do. »

One may very well accept the idea that 99% of the inmates of our prisons and penal institutions essentially adhere to the prevailing norms and values but happened to find (or imagined) their way to legitimate achievement of the shared goals of our society blocked, and yet realize that this does not account for all political criminals, not for alternative cultures like those of the Provos or hippies, not for all members of protest, reform, or revolutionary movements (often in conflict with the police).

It might represent a great step forward towards scientific maturity in criminology, if criminologists started to realize that a harmony-deviancy model will not do for all cases of crime, that the traditional list of what behaviour constitutes deviancy is a rule thoroughly philistine (and moreover, by virtue of its omissions hypocritical), and that there are subcultures (it would be better to evade the subjectively hierarchical prefix « sub » and, in the first instance to speak of alternative cultures), be they fascist or hippie, black power or female power, that one cannot do away with by treating them humanely (read: trying to adapt them

(vervolg van pagina 107)

Culture as a Generating Milieu of Gang Delinquency, in: *Journal of Social Issues*, 14, pp. 5-19, 1958. Miller stressed the different culture of the lower-class with among others, its accent on « kicks », « toughness » and machismo (leading inevitably to behaviour that is defined as crime by the middle-class norms of the judiciary). (Miller, in his turn, was criticized by BORDUA, D., *A Critique of Sociological Interpretations of Gang Delinquency*, in: WOLFGANG, M. E., et al., (eds.), *The Sociology of Gang and Delinquency*, pp. 289-301, New York, 1962, who thought that Miller had put the cat among the pigeons by equating lower-class culture with the traits of the slum/criminal lower-class culture. See further DESSAUR, C. I., *Foundations of Theory-Formation in Criminology*, The Hague, 1971, pp. 109-110 on this topic.

(60) NAGEL, W. H., *Critical Criminology*, Amsterdam, 1970.

as kindly and efficiently as possible to the prevailing state of affairs).

Besides a criminology of deviance and its treatment, there is a great need for a criminology of fundamental culture conflict and how to live with it. If in this field penal measures have to be taken by those in power (as against active fascists, but one might even grant the establishment their fear of movements that in our eyes seem much better than the present order), even the traditional prison may, in certain circumstances, be a more humane, more respectful reaction than the « headshrinking » activities of the Freudians (61).

At the beginning of this paper we showed how one might try to compile a model of criminal behaviour as a subset of deviant behaviour, while defining deviant behaviour by either of the two classes of definitions (a) or (b) or an eclectic combination of them.

It is not as easy as that to propose even the rudimentary beginnings of a model for (some) criminal behaviour as a subset of culturally conflicting behaviour. One of the first attempts to describe, explain and predict (some) crime this way, is to be found in American studies, relating mostly to conflicts between different ethnic groups. The first theoretical foundation for this line of reasoning has been given by SELLIN (62), whereas empirical studies have been done by « ecologists », from the Chicago School and fairly recently, SHOHAM in Israel (63).

SELLIN distinguishes three roots for the genesis of (mainly ethnical) conflict: « Conflicts between the norms of divergent cultures may arise

- (1) when these codes clash on the border of contiguous cultures 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. »

(61) This topic is treated more extensively in the last paragraphs of DESSAUR, C. I., *Penal Law Put To Right*, an introductory address to the Congress of that name held under the auspices of the *Coornhert-Liga*, Leiden 1972. An English version of this speech has appeared as the leading article in *Abstracts on Criminology and Penology*, Summer 1972.

The example is given of the reorganisation of the London Holloway prison for women into a « therapeutic centre ». Women who come into conflict with the law, will - per definition - be treated as mental patients. They will not be allowed to discuss anything but restricted private problems when incarcerated in the « therapeutic centre ». Structural social and cultural problems will be absolutely taboo in this brave new world where suave psychiatrists have taken the seat of judges.

(62) SELLIN, Th., *Culture Conflict and Crime*, New York, 1938.

(63) SHOHAM, S., *The Application of the « Culture-Conflict » Hypothesis to the Criminality of Immigrants in Israel*, in: *Journal of Criminal Law, Criminology, and Police Science*, 53, pp. 207-214, 1962.

He then adds, in a note, that due to the modern media, no face-to-face contact is necessary for the transmission of divergent conduct norms. What we might now call «symbolic interaction» may be sufficient for culture conflict to arise.

There is, however, a fourth source of culture conflict which is hardly mentioned by either SELLIN or his disciples, and that is *social change*. In the view of SELLIN and his fellows, it is as if there existed a fixed amount of cultural (norm and value) systems on earth, which may «physically» or symbolically move from place to place (carried by persons or media), which may clash when they meet, which may be suppressed until they disappear which, in short, obey the laws of social mechanics and social entropy, but without ever seeming to be generated.

SELLIN etc. might object that they too are involved with social change. This is, however, only true for «change» in a restricted sense: change as a re-arrangement of existing social and cultural «matter», or possibly as the extinction of such «matter». They evade or overlook the question of the capacity of the human species to *generate* norms and values that are, for all practical purposes, different from what has existed before.

To give an example: the belief that the female half of our species consists of totally human people, autonomous individuals entitled to all the fundamental human rights, is a value which, both in its verbal formulation and in its consequences, has only recently been formulated (save for some hesitant and mostly half-hearted attempts at formulation in the past). Whether one defines this new value as a new and wider application of an old one (that of the humanity and autonomy of male humans), or as something totally new is only a matter of playing with words. (Analogous reasoning applies to coloured people, for slaves, for the working classes, for youths, groups which however, again consist of 50% females).

It is my belief that one of the main sources of conflict-crime (as opposed to criminal deviance) in the near future, besides the border-migration- and usurpation-conflicts that SELLIN etc. already had in mind, will be precisely such *cultural change* due to the generation of *new* systems of beliefs, norms and values.

As sociologists we do not care as much for the personal stresses these new value-systems may cause as for the interpersonal conflicts they may lead too. And just as in the case of deviancy criminal deviance formed a tiny subset of all possible deviant behaviour, so will conflict-crime form only a small, but important subset of all interpersonal conflicts.

It would be a great step forward for criminologists, penologists and lawyers to recognize the existence of this type of crime. How one should react to it is very hard to say.

One may be confronted with new value-systems that happen to be in one's own eyes very inferior to the prevailing one (say the value

system of the *Third Reich*, or the value system of dictator-states and their adepts, or one may be confronted with what happen to be in one's own eyes valuesystems of an ethically and ideologically higher order than the present one some branch of the new culture, female power or an emancipation movement for the coloured humans).

How should the judicial establishment react if members of such new («alternative») cultures clash with the prevailing judicial order?

SUMMARY AND CONCLUSIONS

presented after the colloquium discussions

The whole penal system — from the legislative level, through that of the judiciary, through the administrative and executive levels, and including the medical, psychological and social workers connected with it — can be seen as one big machine for solving social conflicts that are felt to be too serious or too complicated to be dealt with otherwise, in a more informal way. Penal legislation, penal jurisdiction and all penitentiary activities (whether punishment, treatment or other penal measures of social control) can be seen as conflict solving behaviour.

The efficiency and effectiveness of this conflict solving behaviour were discussed in section II of the I.P.P.F. Colloquium, with regard to two main categories of social conflicts:

- (a) Conflicts arising from criminal behaviour as it has been traditionally defined;
- (b) Conflicts arising from « new » forms of crime.

As to (a): In most of the countries represented at the Colloquium traditional crime is felt to be a serious social problem. The problem is not only that some of its manifestations, like aggressive crime, may be on the increase quantitatively and/or qualitatively, and that other traditional crimes may be changing both in quantity, quality and in the groups concerned (drug-taking among the youths, for instance, where drug-taking was formerly a typical middle-age crime of women and people in the medical professions); it is also felt that traditional penal reactions towards it are becoming very inadequate.

Thanks to empirical criminological research most people employed in the penitentiary systems of the civilized world, are nowadays aware of the lack of positive effects — and indeed perhaps of the outright criminogenetic effects — of traditional repressive punishment and the stigmatization process (often for life) connected with it.

Repressive punishment is hardly an efficient and effective way of solving social conflicts either from the point of view of the individual offender or from the point of view of the general public, for whom it should have a deterrent effect.

The first reaction to this factual information has been, in several countries, to humanize the traditional prison system by combining it with, or replacing it by compulsory psychological or psychiatric treatment of serious offenders.

Since compulsory treatment is mostly felt to be another form of punishment in the eyes of those undergoing it in order to get free again and also, it seems, in the eyes of the general public, (countries with

already much experience in this field like the Scandinavian countries, Britain and the Netherlands, could easily produce empirical data to prove this statement), the stigmatizing (and thereby criminogenetic) effects of this kind of social reaction, and its general preventive effects, are most probably as great, or as small, as that of the traditional types of repressive penal reaction.

Empirical research has also shown that with regard to the prevention of recidivism no great difference exists between the effectiveness of these forms of treatment and of traditional punishment. It is at this point that one might start to consider the relative costs of crime, of (de)criminalization, and of punishment and/or treatment, a point to which we shall return.

Another way of solving social conflicts raised by « deviant » behaviour held to be criminal, — evading both the costs and the relative ineffectiveness of either punishment or penal treatment — would be to raise the « tolerance limit » of the community through better education and factual information about such types of deviant behaviour as are either really a matter of individual responsibility and not a matter for patriarchal state control (like marital infidelity, blasphemy, homosexuality, the consumption of pornography) or which might better be dealt with through other social systems than the penal and penitentiary one. (Alcoholism, hard drug taking, vagrancy, prostitution, for example.)

Thanks to the better education of the general public and the role of the media in disseminating information, one could teach most people to become as tolerant as modern, complex, dynamic societies in fact require them to be and help them to overcome old superstitions (like that of pornography leading to rape, whereas all empirical research tends to show that the only thing pornography may induce is release of sexual tensions and thus a decrease of aggressive sexual crimes, or that of homosexuality being « contagious » for people that might have remained heterosexual if they had not been exposed to it).

If the general public in one country or another is not ripe yet for a high degree of tolerance towards these kinds of deviant behaviour, a start could be made by *decriminalizing* this behaviour by transferring its « control », or at least the official social reactions to it, to subsystems of the law other than the penal and penitentiary one, thus gradually teaching the public not to invoke the law at all, if social deviation or social conflicts can be dealt with in another manner.

When even the transfer of social control to other subsystems of the law is not feasible for acts that in the eyes of the intellectual and political avant-garde should become decriminalized in the near future, a start could be made in the direction of *depenalizing* these acts by replacing traditional prison-punishment and traditional treatment with any of the following measures: fines, retributions to victims, « drivers clinics », drug-clinics, weekend-confinement, etcetera.

As to (b): New types of crime, (in so far as they do not arise from

the development of old forms or criminal behaviour but are really due to changing values within a society), may be categorized as follows:

(1) Those forms of deviant behaviour that only recently, through a new awareness and consciousness in society, have become perceived as criminal: the preparation and execution of war, of colonization, discrimination against and the exploitation of minorities, environmental pollution (be it through sheer stupidity or for reasons of sheer financial gain), etcetera.

(2) Those forms of social conflict behaviour that are or may be defined formally as criminal, but that really are a consequence of deep-rooted social conflicts and cultural discrepancies. Protest and revolt among the young, students, coloured people, women are some examples of this category of behaviour.

With regard to traditional crime, until recently the usual reaction in most countries has been to try to suppress its manifestation (to suppress the symptoms) without seeking the causes that gave rise to the social conflict of which a criminal act may be the end product. Since this suppression of symptoms was hardly effective, people started looking for individual causes (the psychological treatment school of thought).

We are now confronted in many civilizations with the new types of crime set out above, for which either imprisonment or fines or traditional treatment seem still less adequate than they proved to be for traditional crime.

With regard to the forms of crime mentioned under (1) above, it seems much more effective to try to control the opportunities for crime (e.g. by a wider distribution of power) than to impose any penal sanctioning after the event.

With regard to the acts mentioned under (2) above, it seems worthwhile to take the social conflict symptoms more seriously than is done by those who think they can just suppress them directly, e.g. by meeting violence with violence, and to investigate empirically their social causes. Much creative imagination will be needed to find macrosocial solutions for macrosocial problems which manifest themselves as protest and reform movements or even as violent revolutionary movements, and to identify cultural innovations which would respond to cultural dissatisfaction, that may manifest itself, among other ways, as a retreat from society through drugtaking.

Yet it is only from such macrosocial thinking and cultural creativity that any hope for the future can be derived.

To summarize one might say that the traditional role of the penal and penitentiary system is quickly changing in the most advanced countries of the world, and should start to change in the other countries

as soon as possible (if they do not want to become overcome by violent or retreatist mass protest movements on the one hand a highly suppressive police force on the other). This change would move away from reacting in a penal manner to social conflicts, by means of measures aimed at the individual criminal and those that one supposes might identify with her or him) towards reactions aimed at macrosocial and even cultural solutions for present conflicts of interests and values.

Further: by limiting opportunities for crime on the one hand (especially with regard to those that have too much power, allowing them to behave as immorally and as detrimentally towards society as they please at present), and by allowing definitions of crime on the other hand (specifically with regard to those « deviant » acts for which any adult person should bear the individual responsibility herself or himself), one might greatly reduce the tremendous costs of crime and the need for traditional methods of trying to suppress it.

The Sections

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Reports

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First Section

SOCIOLOGICAL AND LEGAL ASPECTS

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REPORT ON THE DISCUSSIONS OF SECTION I, SOCIOLOGICAL AND LEGAL ASPECTS

Themes in topics discussed in this sections were:

- A. The concept of deviance. The aim was not to find a formal definition but to achieve, if possible, a common approach to the concept of deviance and an evaluation of the concept's workability.
 - B. Criminalisation and decriminalisation.
 - C. Relationship and cooperation between criminologists and jurists on the one hand and theorists and practitioners on the other (both B and C in connection with the concept of deviance).
- A. The reports that were presented brought out certain features common to all theories on deviance:
- Scientific neutrality with regard to traditional morality and criminal law. Deviance is viewed objectively and not judged from a subjective standpoint.
 - The enormous relativity of the concept, deviance being non-conformity in relation to all the different sorts of norms operating in groups of the most varied kinds.
 - The notion of a continuum from the strictest conformity to the most serious criminality. This should replace the dichotomy of delinquent and non-delinquent.
 - The shift of emphasis from the delinquent himself to the reaction of society and the importance attached to the processes of «labelling» and «stigmatisation» in the rise and development of delinquency.

Some participants contended that these ideas were not very novel and that they were quite useless by virtue of their extreme relativity and provided no certainty of any kind, whereas the notion of illegality was clear and easy to pin down. They said it was a fashion which would soon change. Others saw the theories on deviance as a movement into the camp of delinquency and their protagonists as enemies of authority who are much more interested in the misfortunes of criminals than the misfortunes of their victims.

At the other end of the scale some participants were glad that the concept of deviance had helped to counter a certain fetishism in the enforcement of law, pointing out the discrepancy between theoretical norms and rules actually applied, putting just as much emphasis

on the need for new laws as on present laws, many of which have not been adapted to modern society, and focusing attention on the deviance of the Establishment, Governments and even States.

Some stressed the very general benefits that could be expected from the viewpoint represented by the notion of deviance: better acquaintance with the phenomena of interaction between individual behaviour and the processes of social reaction, an impetus to empirical research on the machinery of repression and the adoption of a genuine criminal policy.

Others hastened to examine the practical lessons that could be drawn, at that stage, from the theories. From here discussion moved on to the examination of the problems of criminalisation and decriminalisation.

B. The second problem dealt with, concerned the question of the relevance of the concept of deviance to criminology and present and future criminal law. The question was regarded as of special interest to *the problems of criminalisation and decriminalisation*.

An analysis was made of the different kinds of decriminalisation. They can be divided into three main types.

The first is *purely formal*. It consists in repealing statutory provisions establishing an offence or replacing them by less strict provisions. This means partial adjustment of the penal system either by means of a number of reforms carried out collectively, as was done in Britain recently, or by provisions relating to particular sectors. This would provide an opportunity to abolish offences no longer having any bearing on the present situation and certain criminal norms could be changed.

The second is *de facto decriminalisation*. Prosecution and punishment for certain offences ceases though the laws laying down the offences are not annulled or formally amended. Prosecution and punishment, or punishment only, are abandoned. Given such a development in police and judicial procedure, it would be necessary to look for the reason behind it, whom it relates to, on what consideration it is based and what types of offender are involved.

Lastly there is *decriminalisation of criminal policy*. Legislators, prompted by public opinion or sometimes anticipating it, take genuine note of the changes taking place in social ethics. We are witnessing here a review of values in the realm of criminal philosophy and of the notions behind anti-criminal reaction considered in their entirety. At the other extreme there emerges a policy of criminalisation, imposed either by public opinion or by the exigencies of modern life. This tendency has been illustrated over the last twenty years by failure to help persons in danger, dangerous driving offences, drug trafficking, alcoholism, invasion of privacy and pollution. Many of these new offences are examples of certain forms of deviance tolerated until quite recently.

It has been noted on several occasions that certain forms of deviance and social reaction occur simultaneously throughout the whole world.

Criminalisation and decriminalisation follow certain patterns of legislative reform which go far beyond the political boundaries of the States concerned.

The internationalisation of criminal policy stems largely from the realisation that similar deviant behaviour exists in other countries.

The Section also examined the *effects of decriminalisation and the positive findings of research into deviance*.

a) Decriminalisation so far did not appear to have affected the overall amount of criminality. Admittedly, the reverse side of the coin is that certain forms of deviance have been turned into offences.

It might be thought, at first sight, that deviance in itself is of no interest to the jurist, for it either remains outside the scope of ordinary criminal law or, if it does come into it, it ceases, strictly speaking, to be deviance. Nevertheless the concept of deviance has something positive to offer the jurist, which he can no longer ignore. It helps him to understand that problems of criminality can no longer be solved merely by the application of norms. The idea of a *continuum* and the consideration that there are a series of situations which are complementary to those with which criminal law is concerned compel the jurist to enlist the aid of the social sciences.

b) Deviance also leads the jurist and those concerned with delinquency to question the generally accepted norms of social behaviour and the legitimacy of such norms in themselves. One comes up against an inevitably controversial element in the study of deviance. It is quite natural to find oneself questioning the deviance of society itself, the deviance of the socio-economic system, the failings, inadequacies and hypocracies of criminal law as it is implemented and the violations in practice of its declared principles. Here deviance is no longer individual; it is not even the deviance of certain groups but the deviance of the whole machinery of the State. Although this takes us beyond the limits of the present discussion it is impossible to pass it over completely.

c) Deviance thus emerges as a collective rather than an individual phenomenon, which again leads the jurist to question the soundness and the appropriateness or otherwise of the means employed by social reaction to deal with the conditions of a society which itself engenders the forms of deviance about which it complains. And so the study of deviance becomes the study of social prophylaxis, prevention, the revision of the penal system and a criminal policy founded not upon repression but upon the protection and humanising of the inevitable reaction against criminality or the various forms of deviant behaviour.

C. On the subject forming the third point in the discussions, it was stated that establishing a *relation between jurists and criminologists*, between practitioners and theorists, is first and foremost a problem of communi-

cation, of thinking and speaking in a language understandable to all.

Practitioners should be in a position to ask for scientific information which is useful to them.

Often research findings are known only to the researchers.

With regard to the role of the empiricist in formulating criminal policy, the question was raised whether the researcher was called upon to give an assessment or whether he should abstain from judgment.

Many suggestions were formulated for the improvement of a situation that is still far from satisfactory:

- Administrators should respect scientific freedom absolutely and acknowledge that an essential function of research, particularly research into deviance, is to evaluate and criticize existing institutions and systems.
- Decision-makers should make concrete use of the results derived from research, which, though they have been mostly negative up till now, at least show quite clearly what should *not* be done.
- It would of course be advisable to avoid the formation of closed specialist groups and to create services for converting the results of research into terms of administration and action.
- The collaboration between practitioners and researchers should more often take the form of controlled experiments, etc. . . .

Lastly it was noted that behind all these difficulties was the problem of the education of the men called upon to take legislative, administrative, judicial and even political decisions. They should not expect an easy formula but should be equipped to appreciate the complexity of the problems and take account of scientific data not having any direct bearing on the matter in hand. They should realise how research could help them solve their problems.

Second Section

PREVENTION AND TREATMENT

Chairman:

Prof. S. Inkeri ANTTILA (Finland)

Rapporteurs:

Prof. C. I. DESSAUR (Netherlands)

Dr. O. WILFERT (Austria)

MEMBERS

Messrs. P. ALLEWIJN

(The Netherlands)

E. J. BESIER

(The Netherlands)

S. BJÖRNSEN (Norway)

M. BUONAMANO

(Italy)

W. CLIFFORD

(United Nations)

P. CORNIL (Belgium)

W. R. COX

(United Kingdom)

F. DI GIROLAMO

(Italy) (Social Defence
Centre of Milan)

G. FELDER

(Switzerland)

Y. FUJINAGA (Japan)

J. GUARDADO LOPES

(Portugal)

J. HEILBO (Denmark)

A. HERSTEL

(The Netherlands)

B. HOV

(Norway)

V. PICKL

(Austria)

J. RODRIGUEZ

SUAREZ (Spain)

G. TARTAGLIONE

(Italy) (Social Defence
Centre of Milan)

Ch. TRIANTAPHYL-

LIDIS

(Greece) (IPPF-

corresponding member)

K. USUI

(Japan)

F. A. H. VISSER

(Union of South Africa)

Alfons WAHL

(Federal Republic of

Germany)

J. de ZAVALA y CAS-

TELLA (Spain)

REPORT OF THE DISCUSSIONS OF SECTION II:

Prevention and treatment

Section II has studied the following items:

- A. Concepts of deviance
- B. Prevention
- C. Scientists versus practitioners
- D. Treatment
- E. New types of crime.

As a guidance of the discussion served the report of the expert of Section II. As an introduction to the discussion the expert gave a general survey of the most important items out of the report.

A. *Concepts of deviance*

In the report is called attention to the fact, that there are different concepts of deviant behaviour. The appropriate preventive and treatment measures, which can be taken depend largely on the concept of deviant behaviour that is taken as a base, as a starting-point.

The traditional concept of deviant behaviour is behaviour, which violates institutionalised norms and rules set for people of a community and that exceeds the tolerance limit of the community.

The traditional reactions of society towards deviant behaviour as to prevention and treatment is mainly based on this conception.

In a way the total penal and penitentiary system from the legislative level, through that of the judiciary, through the administrative and execution levels, including the medical-, psychological- and social workers connected with it, is based upon the traditional concept of deviant behaviour. The leading idea of the penal and penitentiary system is that deviants, who violate the penal rules are people who are not able or not willing to live according to those rules of the community and are in conflict with the norms and standards of the community.

The expert explained that deviant behaviour can also be seen as behaviour so labelled by the group, by the community. In this concept deviant behaviour is not a property inherent to certain forms of behaviour, or a property inherent to certain kinds of people, but rather the result of the action by social control agencies. In this conception deviant behaviour is the product of the responses of the conventional and conforming members of the society.

These different concepts of deviant behaviour and in connection with it the efficiency and effectiveness of the actual penal and penitentiary system have been under discussion.

It was not to be expected that any agreement about concepts or definitions of deviant behaviour could be achieved, especially not because most of the participants of this section were practice-oriented workers.

Nevertheless the confrontation during the discussion of practitioners with modern theories of scientists about deviant and criminal behaviour was very useful. The discussion showed clearly that there was quite a distance between scientists and practitioners. So it was put forward that the modern concepts of deviant behaviour were very interesting, but that it was not clear if from the new concepts could be drawn any value for the daily practice of the penitentiary system. It was also noticed that if deviant and criminal behaviour would only be a question of a labelling process of the prevailing community, the notion of deviant behaviour would be fully relative. In that case it would be not possible to come to general rules as to forms of treatment for those performing deviant behaviour.

There was the supposition that irrespective of different concepts of deviant and criminal behaviour there always would be certain forms of behaviour which were not acceptable at all, in whatever theory or concept, in what period, in what community.

Such forms of behaviour could be taken as a base for the discussion of the efficiency and effectiveness of the to-days preventive and treatment measures.

From the discussion it appeared that one could not manage to achieve any general acceptance about the nature and causes of deviant and criminal behaviour. As a consequence the discussion about prevention and treatment followed on the whole traditional lines.

B. Prevention

The expert pointed out that both the costs and the relative ineffectiveness of both punishment and penal treatment could be evaded by application of other measures or methods.

As a measure f.i. one could try to raise the tolerance limit of the community. This could be done through better education and factual information with regard to certain types of deviant behaviour. One might imagine those types of deviant behaviour which are more a matter of individual responsibility and less a matter for state control f.i. marital infidelity, blasphemy, homosexuality, consumption of pornography.

Moreover one might think of those types of deviant behaviour which might better be dealt with through other social systems than the penal and penitentiary one f.i. alcoholism. A higher degree of tolerance could be achieved by decriminalising these kinds of deviant behaviour in order to transfer its « control » or at least the official social reactions to it, to another subsystem of the law than the penal and penitentiary one.

If decriminalising would not be attainable one might start by de-penalising certain criminal acts by replacing traditional prison punishment and traditional treatment with other — perhaps more effective and less stigmatising — measures f.i. drivers clinic, drug-clinic, weekend-confinement.

As to the new measures and methods of prevention the participants were rather hesitant and careful to discuss them.

Most of them lie outside the penal and penitentiary field and especially the practitioners in this field didn't estimate themselves competent to judge if such measures as decriminalising would be more effective. Besides it was stated that one must not overlook the fact, that the main purpose of the actual penal and penitentiary system even is to achieve a general preventive effect. The assumption that the actual penal and penitentiary system has indeed a general preventive effect towards traditional crimes was amply discussed. It was pointed out that the results of empirical criminological research showed a lack of positive effects — if not outright criminogene effects — of traditional repressive punishment.

C. Scientists versus practitioners

The discussion showed that in general the findings of research-workers in the criminological field are not common property of the practitioners. There was a general agreement about the necessity of more research work about the effectiveness of the actual measures and methods as reaction to criminal behaviour. Especially a better cooperation and understanding between researchworkers and practitioners should be achieved. It was pointed out that there is a missing link between research and practice. The practitioners are in general not skilled and not used to understand and to translate in terms of policy the findings of research-work. On the contrary the research-workers often are not skilled or not willing to make themselves understandable for practitioners nor to adjust their research to the needs of policy-makers in the penal and penitentiary field.

In order to achieve a better understanding and cooperation and to promote a thinking on the same line it was considered advisable to have more frequent contacts between both groups of workers, such as was the case in a useful way in this congress.

D. Treatment

Concerning the treatment-measures and methods — especially the institutional ones — two preliminary remarks were made.

One must be careful not to entangle the notion of social reaction and that of treatment. Social reaction is a much wider notion than treatment.

In the second place attention was drawn to the fact that in judging the effectiveness of treatment methods in penitentiary institutions one must take into account that there is no correlation between the period of imprisonment and the time needed for treatment. It may be that the time of imprisonment is far too short for an effective treatment, but also the reverse may be the case. It even may be that a long period of imprisonment creates a need for f.i. psychiatric treatment and not the fact that the offender has committed a crime.

As to the effects of punishment by means of deprivation of liberty on the offender himself, the expert stated that repressive punishment had shown hardly an efficient and effective way of solving social conflicts both with regard to the individual offender and with regard to the general public. The results of research didn't indicate that the change in the traditional prison system by combining it with or replacing it by compulsory psychological or psychiatric treatment is much more effective.

It was also mentioned that the prison system must be very flexible in order to have possibilities to change and adopt the methods of treatment according to the changes in forms of deviant and criminal behaviour. In order to dispose of those possibilities of quick and smooth adaption of the prison system the advice was given to put up in the penal law only the principal regulations and not details of application. The discussion concentrated on more practical questions connected with institutional treatment.

Special attention was drawn to the fact that it is dangerous simply to take over treatment-methods from non-penitentiary institutions. Attention must be paid to the aspects of voluntariness.

The lack of voluntariness may be a cause of the modest results of forms of agogical, psychological and psychiatric treatment on offenders. Even if a prisoner is given a free choice to join a treatment-institution or not, his position may be essentially different from a patient in free society.

In the shift from punishment to treatment the role of the prison officer has become much heavier, more different and complicated. Much more attention should therefore be given to the formation education

and training of staff. This is necessary to give staffmembers the right idea about relativity between normal and deviant behaviour and a better insight in the possible causes of criminal behaviour. It was also recommended to give staff-members some experience themselves with treatment-methods.

On the other hand one should be careful not to remove the prison officer too far from the norms and standards which play an important role in his own social group. One must avoid to try to make a therapeutic specialist out of a prison officer. In the first place he must remain a person who knows how to build up personal relationships with the inmate.

Attention was drawn to the fact that values and behavioural norms in institutions like prisons have a strong inclination to develop slowly if compared to development in society. This evokes irritation with the prisoners and tensions which damage the possibilities of treatment.

Finally new types of crime, which are very different from traditional forms of crime were taken into consideration. In the chapters C and F of the expert report a number of new forms of crime are treated a.o. forms of deviant behaviour, which though formally criminal are in reality a consequence of social conflicts and cultural discrepancies. As examples of such new forms of crime were given:

- students occupying the administrative building of the university to protest against a lack of democracy in the management of the university;
- highjacking in order to draw the attention of the public to political or social problems and circumstances;
- the use of drugs in order to escape from the reality of society.

In the discussion there was some doubt as to how far we have to deal with real new forms of crime or only with traditional forms with the use of modern means and methods.

Though the question what could be sensible and effective reactions of society in the field of prevention as well as in the field of treatment towards new forms of crime, was hardly discussed, there was in general agreement that the solution could not be found in the penal law and penitentiary system alone.

Especially as to the new forms of crime there is a need for the social aspects of deviant behaviour to be approached in a fundamental and sociological manner.

Closing Meeting

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9 June 1972

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Conference hall.

Speech by Mr. P. Allewijn, general rapporteur:

Mr. President,

In preparing my report on the results of our colloquium on deviant behaviour and social reaction, I had the strong feeling, that the last elections of new members of the executive committee of our Foundation had given us an excellent President but had also deprived us of a Secretary-General who was very capable of acting as general rapporteur.

At conferences everybody is of course always curious to know what the general rapporteur will conclude after so many debates in the section meetings, how he will manage to formulate conclusions which the participants themselves are not always aware they have reached. A difficult task indeed, so it is perhaps sensible to avoid the position of a general rapporteur. But I cannot get out of it, for as your general rapporteur I cannot be curious and I must know and present the conclusions.

In my introductory speech I expressed the wish that you were all in the right mood. Well, I hope that you still are. Our hosts at least have done their best to make you happy.

Rather paradoxically, however, I also hope that after our discussions we are more or less confused. I say this, because one of the aims of the conference was to create confusion. One may ask if it was sensible to deal with a subject as abstract and vague as deviant behaviour. A subject giving rise to many problems, which we knew before we started could not be solved in a conference, problems of definition, problems of distinction between what is normal, desirable, acceptable, tolerable, unacceptable, deviant and criminal, problems concerning the fight against criminal behaviour and the problem of effective reaction by society.

At the end of this conference I can sum up by saying that our meeting has nevertheless been worthwhile. It was useful to be confronted with modern theories and models of deviant behaviour and new ideas about social reaction. I am also aware of the importance of the confusion created by such a confrontation about the part we play as legislators, policemen, prosecutors, judges, penal administrators, social workers, probation officers, psychiatrists etc.

Our colloquium confronted people with the question: do you really know — as you do your job — what is going on in society today and likely to take place tomorrow? Do you think that the penal and penitentiary system is effective and able to cope with the new forms of deviant and criminal behaviour? Is the judicial system still able — if it ever was — to furnish the right answer, the right reaction on behalf

of society, to the phenomena of deviant behaviour, the deviant acts already criminal or to be designated as criminal in the near future?

The Foundation asked scientists and criminologists for their ideas about social developments and changes in relation to the penal and penitentiary system and deviant criminal behaviour. We asked for their ideas in order to challenge — even to attack and to confuse — those who work in the field.

The aim of our conference and the justification of its theme were excellently formulated by Mr. BRODA, the Minister of Justice, in his opening speech. For a long time the attitude of legislators, prosecutors, judges and those enforcing the law on deviant behaviour was unchallenged.

This attitude was understood as moral in itself. It was the general opinion. This means that there was unanimity on the context of the moral demands amongst those who made the law and those who had to see it was obeyed. Outsiders had no say at all. Penal law was the highest of moral bulwarks. Reforming penal law was like the work of the fortress architect, which did not change the substance of the bulwarks. The science of deviant behaviour only affected the penal system in as much as it meant a better understanding of this behaviour so that effective measures could be taken against it. But, said the Minister, opinions which at one time were absolutely unquestioned have become doubtful today. The extent of what is considered moral has become smaller. Therefore, justice needs the sciences of deviant behaviour more than ever before.

The reports prepared by the experts served as an excellent basis for attacks on the fortifications established by daily exercise of our profession in the field.

Prof. PAWLİK described some of the problems arising from the confrontation between theoretical criminologists and practical workers. He said in his report that the study of deviant behaviour rather than crime offers the criminologist a new perspective which is more suited to empirical research and theoretical study. He led us away from our safe strongholds in the penal and penitentiary field by a reexamination of the concepts of crime and deviance, showing a new model of deviance, crime and social control.

By offering his rather complex model, he disturbed our plain everyday model in which things were arranged in a simple way: « If you don't want certain things to be done and you are in power, ban them in criminal or other laws, bring those who violate them to court, try them, sentence them, punish or treat them and the problem will be solved, perhaps even in a humane way ».

« No », said Prof. PAWLİK, « it is not as simple as that », and he

showed us his model including the variables underlying the social mechanisms of classification and control of behaviour. He disturbed the practical workers by saying that we have to decide about the selection of the kinds of behaviour to be subjected to legal control and about the reactions of society to criminal deviance. As regards the different ways of reacting, we saw a distinction between

- criminal behaviour, requiring punishment.
- socially harmful behaviour due to insufficient knowledge or education, requiring special education.
- behaviour due to social environmental circumstances requiring environmental support.
- inadequate behaviour due to insufficient knowledge or education, requiring special education.

In addition, Prof. PAWLİK confronted us in his model with the cost/benefit factor rather neglected in the penal field, by saying that the direct and indirect gains from social control must at least equal the losses due to deviance and crime plus the cost of executing that control.

So Prof. PAWLİK's attack on the traditional bulwarks of the practical workers contained a lot of powerful ammunition. Shall we derive a lesson from it and examine more carefully the mechanisms of behaviour, social opinion, social norms and their enforcement so that there can be a healthy widening of our traditional concepts?

Another attack came from Mr. VERIN. We could harbour some hope, that he as a jurist would at least spare a little the practical workers entrenched behind the wall formed by the existing criminal justice system. At the start of his report we had some hope he would do so, as he spoke of a kind of invasion of criminology by deviance. But this was only an illusion, since he suddenly challenged the tradition — oriented lawyers. In his opinion the jurist can derive three guidelines from the new ideas on deviance

- the feeling of a certain sclerosis and a more or less unconscious attachment to custom and hypocritical and immoral social structures, and arising from this, awareness of the need for a modernisation of the study of morality;
- the adoption of an understanding attitude opposed to the traditional punitive spirit, which brings us to the humanism of a new defence of society;
- the adoption of a criminal policy in the true sense.

Mr. VERIN quoted Mr. VERSELE: It must be openly proclaimed and admitted that criminal law does not support any moral view of life and that its objectives are social and not moral.

The jurist has to examine his conscience. In their scientific role of description of facts and documentation the sociologist and criminologist are keeping open the hiatus between official ethics sanctioned by law and the ethics of real life. Mr. VERIN asked the jurists if it would not be wrong to try to renew knowledge of the living source of ethics. Should the jurist be the only person not to take part in this work of salvation?

These two attacks came in Section I. The attack in Section II came from Dr. DESSAUR. Her report started by saying that she was astonished that our learned Foundation, composed mainly of criminal lawyers, wanted to look outside the criminal justice system by dealing with the general theme of deviance. Deviant behaviour is a relative concept. She showed this by offering two models as a basis:

- the harmony model, in which there is a contrast between standard behaviour and deviance;
- the conflict model, in which we get rid of deviance, but have a lot of conflicts to cope with and react to.

The traditional reaction towards deviance has always been

- to create a distance between the deviant and the community;
- to isolate the deviant from the community;
- to mark the deviant more or less permanently (make him a scapegoat).

Our attention was drawn to the fact that a deviant is not without norms, he is merely failing to observe the dominant norms in a certain context. We were confronted with the question whether there really is one dominant culture and if a part of the dominant (legal) norm is not also the expression of the interests of certain dominant groups.

As to criminal behaviour Dr. DESSAUR explained that there is a real difference between

- people who do not really reject the norms and rules of society but lack legitimate abilities and opportunities for reaching socially approved goals and
- people who also violate the law but do so quite openly and consciously because they do not agree with the existing structure of society, its values, norms and rules.

We had to decide whether our present-day reactions in the penal and penitentiary field are adequate for both groups of people.

What were the results of the attacks on our traditional penal and penitentiary system?

Of course the practical workers tried to defend themselves with a defence mechanism which is not unfamiliar and even tried to counter-attack. Obviously, now the fight is over, the discussions held, the ramparts and the fortress are still there.

But I think the attacks made holes in our walls. Perhaps some of us closed the holes again immediately after the debates, perhaps others left them open in order to observe society again in the light of our subject, deviant behaviour and social reaction.

It was generally agreed that our society is becoming so complex that there is a strong need for reorientation towards the traditional way of social reaction. In a complex modern society much more legislation, including criminal legislation, is needed to regulate social behaviour than was formerly the case.

There is also a need for a moral system better adapted to our age.

What can be considered the main result of the encounters and confrontations of the last few days?

— Once more we have been able to see that criminal law is not a question of morality, but a social problem, that we have to decide which behaviour will be proscribed by criminal law and which behaviour it need not cover. The question which deviant behaviour must be stigmatised as criminal and which not is not a moral problem but a social one. In making our decisions we must realise that it is wrong to assume that, generally speaking, people share the same standards and values. We must ask ourselves whether classifying behaviour as criminal and punishing it are really the most efficient means of social reaction against certain forms of deviant behaviour. In the latter deviant and criminal behaviour are not based on morality, but depend on the decisions we make on classification and reaction.

— Obviously, the fight against crime can no longer be based on experience and common sense. We have seen during our discussions that there is still great faith in the effectiveness of traditional methods of reaction to traditional forms of crime. However, it has to be admitted that these methods of reaction often produce very poor results, at least if the discoveries of research workers are consulted. We all agree that we need more exact information on the general and special preventive effects of both the penalty and the methods of treatment. More facts and less theory, as one of the experts said.

As far as methods and effectiveness are concerned we are all aware that it is also important to approach the problem from the point of view of cost and benefit. Effectiveness also includes efficiency. In the light of this approach it is obvious that the reaction of the judicial system to deviant behaviour is only a small part of an overall criminal policy. This is particularly true as regards crime prevention, but also as regards reaction against deviant behaviour and its control. Society has other possibilities besides the judicial system. It is striking to note that participants sometimes felt they were only qualified and competent to pronounce on problems connected directly with their own particular field.

Nevertheless we should bear in mind that, taken together, those who work in the judicial sphere have a strong influence on criminal policy as a whole, even on the part of that policy which lies outside the judicial sphere. In view of this, we are obliged to play a double role, that of our own job and that of authority whose opinion and judgement influence the development of a general criminal policy.

Finally, the discussion showed that there is still a wide gulf between, on the one hand, academics who are exploring the field of criminology, carrying out research and trying to develop new theories and, on the other, those working in the field who have to cope with an increase in crime and try to wipe it out. The gulf appears in particular in respect of new forms of crime, especially the more frequent use of violence. There should be no misunderstanding and it is perhaps proper to speak plainly here: there is no difference on this subject as far as the development of appalling acts of violence is concerned.

I am sure we all admit that the new forms of deviant behaviour that threaten society must be fought. The gap between theoreticians and practical workers in the field regards the choice of the most effective and profitable method of prevention, control and reaction to the new forms of criminality and the development of violence. Of course, each country must find its own solution, bearing in mind its own situation and culture.

It has nevertheless been most useful to have analysed the present state of society more carefully with the aid of academics. The conclusion of this week of discussions is that more frequent contact between criminologists and those in the field is essential.

Those in the field would be better informed of research work and the development of new theories. The academics would have a better idea of the problems that need investigation and require more appropriate analysis and explanation.

Our Foundation is pleased to have provided an opportunity for contact of this kind.

During the private meeting held on 9 June by the present members of the Council of the Foundation, Mr. DRAPKIN recalled that it is exactly a hundred years since the international penitentiary congress in London which gave rise to the International Penal and Penitentiary Commission, the origin of the present Foundation. I hope that the I.P.P.F. will enable us to meet, as long as such meetings are necessary, for another hundred years.

Let us not forget that the aim of our conferences is not in the first place to organise meetings at which people can modify theories, but to organise meetings at which theories can modify peoples. If this has been so, the conference has been a success.

After presenting his general report, Mr. ALLEWIJN expressed his gratitude to all those who had helped him in the performance of his duties.

The time had come for Professor DUPRÉEL, President of the I.P.P.F. and of the Colloquium, to say the closing words.

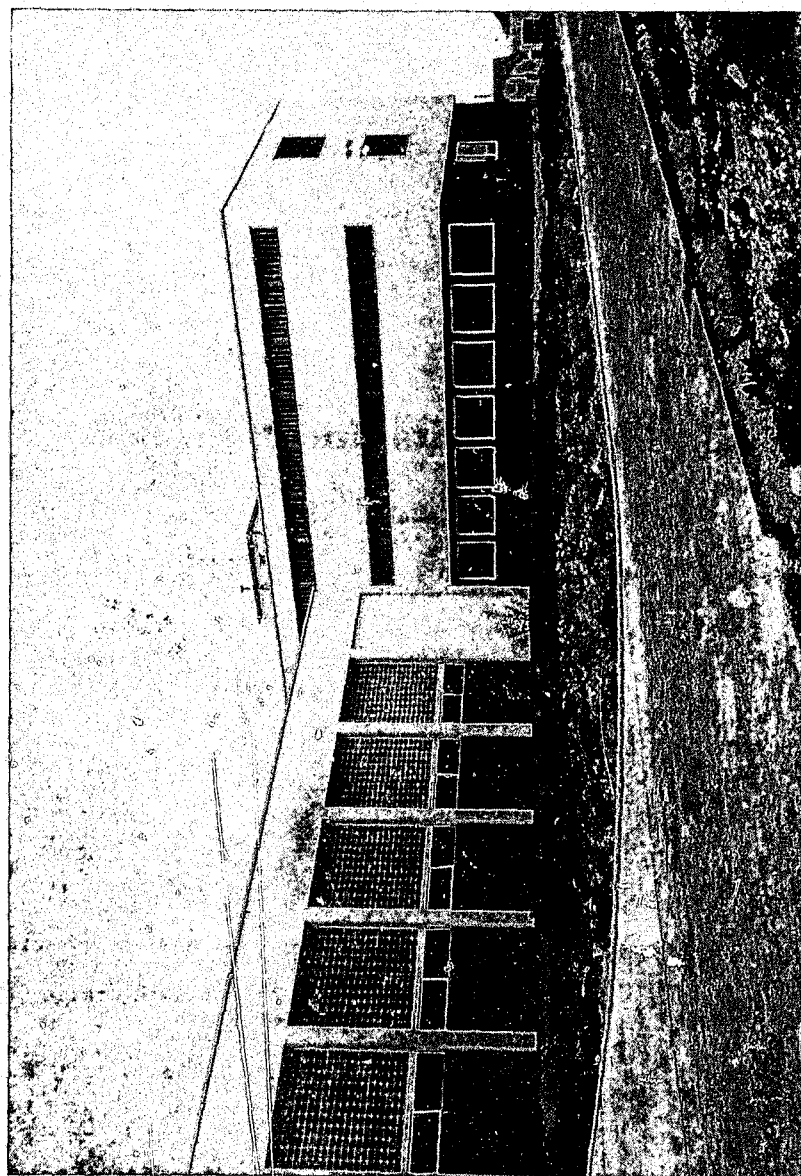
On behalf of the Foundation he thanked all those who, in different capacities, had worked on the preparation and execution of the deliberations and other activities of the meeting. He emphasized the part played by the organisers, the considerable contribution of the section chairmen, Mr. ANCEL and Mrs. ANTTILA, aided by the scientific secretaries, and of course the important contributions made by the experts. He mentioned in particular the scientific contribution consisting of the remarkable preparatory document on deviance and social reaction put at the participants' disposal by the National Centre of Social Prevention and Defence of Milan, with a contribution from Professor NUVOLONE and a team of criminologists.

He also quoted the interesting information provided in a report by Mr. Kyozo USUI on new forms of crime and preventive measures in Japan.

Finally, Mr. DUPRÉEL addressed all participants, particularly the representatives of the major organisations associated with the Colloquium, and those who had come a long way expressing the Foundation's gratitude to them for having, by their presence, guaranteed that the event would be an interesting one.

He then declared the Colloquium closed.

Receptions, Visits and Banquets



The provincial court and prison at Eisenstadt.

RECEPTIONS, VISITS AND BANQUETS

Those who took part in the Vienna Colloquium were invited by the local, provincial and federal authorities and by the I.P.P.F. to attend a number of official receptions and banquets and to make several official visits.

On 6 June, following a tour of Grinzing lasting several hours, the participants were received by Dr. Christian BRODA, the Federal Minister for Justice, at an informal musical evening in a typical Viennese wine restaurant.

On the evening of 7 June, Herr Felix SLAVIK, the Burgomaster of Vienna, gave a dinner for the participants in the Donau Restaurant in the Wiener Donaupark.

The following day was devoted to visits to two institutions concerned with the administration of justice:

- a) the special institution for young offenders in Gerasdorf, whose director, Dr. Theodor SAGL, gave a brief description of the work of the institution;
- b) the provincial court (« Landesgericht ») and prison at Eisenstadt in Burgenland. A short explanatory talk was given by Dr. Wolfgang DOLEISCH, a senior government official.

On the same day, the participants were entertained to luncheon at the « Zur Grenze » Hotel, Pötttsching, by the Federal Minister for Justice and, in the evening, to dinner at Pürbach am See by Herr Theodor KERY, Head of Government of Burgenland province, who was represented by the former Federal Minister, Franz SORONICS.

The participants also had an opportunity in the course of the day of enjoying a pleasure trip on the Neusiedler Lake and of visiting the Austrian-Hungarian frontier.

Finally, on the evening of 9 June, the participants were the guests of the I.P.P.F. at a farewell banquet in Vienna's « Rathauskeller » restaurant. Noteworthy among the toasts were those of Mr. William CLIFFORD, the United Nations representative, and M. Jean DUPRÉEL, the President of the I.P.P.F., the latter expressing thanks to all those who had helped to make the Colloquium a success.

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**PUBLICATIONS OF THE INTERNATIONAL PENAL
AND PENITENTIARY FOUNDATION**

1. — *Les méthodes modernes de traitement pénitentiaire*, Berne, 1955 — on sale by Stämpfli et Cie, Berne.
- 1bis. — Modern methods of penal treatment, Berne, 1955 — on sale by Stämpfli et Cie, Berne.
- 2 à 4 — *Trois aspects de l'action pénitentiaire* — Three aspects of penal treatment, Berne, 1960-1961 — on sale by Stämpfli et Cie, Berne.
 - (2) Tome I: *Rapports* — Reports.
 - (3) Tome II: *Synthèse des travaux du Cycle d'Etudes de Strasbourg*.
 - (4) Tome II: A synthetic report of the proceedings of the Strasbourg Seminar.
5. — *Le régime de la détention préventive*, Imprimerie Pénitentiaire, Nivelles — Belgique, 1961 (not in the stores).
6. — The treatment of untried prisoners, Imprimerie Pénitentiaire, Nivelles — Belgium, 1961 (not in the stores).
7. — *Les nouvelles méthodes psychologiques de traitement des détenus* — *Actes du Colloque International de Bruxelles, 26-31 mars 1962*, Imprimerie Administrative, Nivelles — Belgique, 1963 (not in the stores).
8. — New psychological methods for the treatment of prisoners. Acts of the International Colloquium of Brussels, 26-31 March 1962, Imprimerie Administrative, Nivelles — Belgium, 1963 (not in the stores).
9. — Studies in Penology — *Etudes Pénologiques* — (To the memory of — *A la mémoire de Sir Lionel Fox*) — The Hague, 1964 — On sale by Martinus Nijhoff — The Hague.
10. — *Actes de la première réunion des Chefs des Administrations pénitentiaires — Rome, 7-10 octobre 1964* — *Et hommage au Président Charles Germain* — Imprimerie Administrative, Nivelles — Belgique, 1965 (not in the stores).
11. — Proceedings of the First meeting of Heads of the Penitentiary Administrations — Rome, 7-10 October 1964 — And homage to President Charles Germain — Imprimerie Administrative, Nivelles — Belgium, 1965 (not in the stores).
12. — *Les nouvelles méthodes de restriction de liberté dans le système pénitentiaire* — *Actes du Colloque International d'Ulm, 17-22 avril 1967*, Imprimerie Administrative, Nivelles — Belgique, 1967 (not in the stores).

13. — New methods of Restriction of Liberty in the Penitentiary System — Acts of the International Colloquium of Ulm, 17-22 April 1967, Imprimerie Administrative, Nivelles — Belgium, 1968 (not in the stores).
14. — *Actes de la deuxième réunion des Chefs des Administrations pénitentiaires — Paris, 26-29 septembre 1967 — Et hommage à M. le Directeur général Alfonso Garofalo* — Imprimerie Administrative, Nivelles — Belgique, 1969 (not in the stores).
15. — Proceedings of the Second meeting of Heads of Prison Administrations — Paris, 26-29 September 1967 — And homage to Mr. Director-general Alfonso Garofalo — Imprimerie Administrative, Nivelles — Belgium, 1969 (not in the stores).
16. — *Actes de la troisième réunion des Chefs des Administrations pénitentiaires — Lisbonne, 22-27 septembre 1969* — Imprimerie Administrative, Nivelles — Belgique, 1970 (not in the stores).
17. — Proceedings of the Third meeting of Heads of Prison Administrations — Lisbon, 22-27 September 1969 — Imprimerie Administrative, Nivelles — Belgium, 1970 (not in the stores).
18. — *Déviances et réactions sociales — Actes du Colloque International de Vienne, 5-9 juin 1973* — Imprimerie Van Haeringen b.v., La Haye 1973 (hors commerce).
19. — Deviance and social reaction — Acts of the International Colloquium of Vienna — 5-9 June 1973 — Printed by Van Haeringen b.v., The Hague, 1973 (not in the stores).

END