

## **The International Context of Crime and Punishment**

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**T**he problem of crime and punishment has baffled mankind down the ages. The phenomenon varies in space and time, in consonance with the changes in the texture, temper, and tenor of a society.

Hira Singh (1992a), Director of India's National Institute of Social Defense, has aptly stated that a conduct is considered non-conformist or criminal and is taken cognizance of by the law only in relation to a country's prevailing social values, cultural norms, and established behavioral patterns.

A variety of personality-oriented and environmental variables are intricately woven into the non-conformist or criminal inclination. Some social scientists from various countries aver that crime is a

product of certain exceedingly pervasive criminogenic influences of a country's existing social structure that individuals are not able to withstand.

This lends truism to Henry Thomas Buckley's quote, "society prepares the crime; the criminal commits it." Or to what Lenin alluded to when he said that "crime is a product of social excess."

Other social scientists go further and explain that crime is a sum total of the interaction between, on the one hand, the individual (including free will, education, and others) and, on the other, his social milieu, both of which are of a dynamic nature. While the human personality constantly changes with new experiences, the environment that the individual is exposed to is also

conditioned by a continuous interplay of various sociocultural and economic developments and the political system in which this takes place.

To fully appreciate any crime problem in one's own country, knowledge of world crime trends is essential. For instance, do societies—as they change, expand, and develop—assume new crime patterns? Do they experience increases or decreases in certain types of crimes? How does the flux of crime patterns affect correctional patterns?

Marshall Clinard notes many of the problems facing nations in this period of rapid social change. For instance, industrialization usually affects both the direction and the nature of urbanization. Physical, organizational, and financial facilities necessary to support a growing industrial sector become concentrated in cities. Population shifts to the cities, stimulated by an influx of people seeking employment, may create huge urban ghettos in which numerous social problems exist, including overcrowding, disease, lack of housing, unemployment, and crime (Voight and others 1994:574).

La Free and Kick (*Ibid.*:575) go further and stress that migration of predominantly rural, agricultural people to urban areas often leads

to disruption of family and community ties and controls.

### ***Increasing incidence and globalization of crime***

The world has become a global village. As a consequence of this, concepts of crime and punishment emanating from various nations have been synthesized and adopted, to a larger or lesser degree, by the United Nations member countries. I shall elucidate on this in the later section of this article.

Global crime surveys released by UN in 1990 estimated that the number of recorded crimes, assuming that the rate of increase for the period 1975 to 1980 is maintained, would increase from about 350 million in 1975 to half a billion in 1990 (UN 1990:1).

A more intensive analysis of nine selected countries found the amount of crime to be increasing at an average of 5 percent per year in the period 1980-1986, a rate of growth exceeding those of populations and the national economies.

In the same period, the total number of reported violent crimes against persons—including murders, maimings, and rapes—rose by 9 percent worldwide. Reported property crime—robbery,

theft, embezzlement, and fraud, constituting 70 percent of all recorded offenses—increased by almost 30 percent.

At the time the social survey was released (1990), juvenile offenses in some countries accounted for 60 to 70 percent of all recorded crimes. Although some nations had reported no significant increase in juvenile lawlessness, many countries had, and they were found among several continents in the most developed and least developed nations alike.

A especially disturbing trend was the apparently earlier onset of delinquency. Ages 13 and 14 increasingly marked the start of habitual drug use and criminal offenses. What was worse was that in metropolitan areas of developed and developing countries where drug trafficking, unemployment, and disintegration of family structure were endemic, delinquency commonly began among those less than 10 years old.

I will now give a brief prospectus of the diversified operations of crime, which has become one of the few "worldwide growth industries."

Toward the beginning of the 1990s, traffic in illicit drugs was estimated to have reached US\$500 billion, a sum equal to the combined gross national products

of about two-thirds of the member states of UN.

To translate illicit profits from drugs (and also from prostitution, illegal gambling, fencing of stolen goods, extortion, and loan-sharking operations) into usable forms of wealth and to avoid detection, organized crime necessarily resorts to money laundering. Flowing through complex international financial channels are an estimated US\$1 trillion of "gray" money, its origin disguised for purposes of tax evasion, violation of currency-control laws, and embezzlement.

As regards organized crime and terrorism, although they have become transnational, approaches against them have often been somewhat parochial.

In the UN Crime Congress, it has been stressed time and again that modern methods of transport, communications, and transfer of money have favored a growing internationalization of organized crime and terrorism. Criminal organizations regularly employ virtually every aspect of new developments in science and technology to collaborate across national frontiers and devise global strategies that no government can counteract alone.

Transnational crime is favored by the limited geographic reach of national laws and national law

enforcement authorities, compounded by conflicts among national laws and antiquated international procedures for obtaining evidence and apprehending offenders. Regional and subregional common markets that forge political and economic integration also make national borders more permeable to criminal enterprise.

With regard to punishment, the various correctional systems have been distilled into the UN standard minimum rules for the treatment of prisoners. Surprisingly, however, many, if not most, nations have failed to faithfully apply the principles which they painstakingly forged and fashioned from the anvil of international debates, debates that lasted for years—including regional preparatory conferences.

### ***The etiology of crime***

**The family.** Of the various social control mechanisms, the family, for better or for worse, has the deepest impact on the formation of young people's values, attitudes, and behavior. However, in the words of Hira Singh (1992b:12), the process of socioeconomic and technological development has eroded the strength of the traditional family as a socialization agency.

The troubled family can become a forum for mutual hostility,

aggression, or violence among its members. An increasing incidence of child abuse by family members or those charged with their care is being reported by a number of countries. Disturbed families are often characterized by excessive tolerance or strictness towards children, indifferent parental attitudes, slackness in parental care and control, and lack of harmonious interpersonal relationships.

Traumatic experiences during early childhood are often the roots of psychopathology, social deviance, or criminal behavior in later life. When the family is in conflict or crisis, the young have to look for alternative sources of support or comfort, which may not always be socially constructive—as when youths take refuge in drugs.

Therefore, irrespective of cultural variations, the strengthening of the family as a basic social unit is considered by UN as vital for delinquency prevention all over the world.

**The educators.** Next to the family, the school constitutes a crucial phase for integrated development, as well as social maturation and preparation of the juvenile to attain a well-adjusted, law-abiding, and productive place in society. Apart from providing a springboard for further human resource development, the school has tremendous potential as a

shield against juvenile social deviance.

Hira Singh (1992b:13) proves through the experience of various countries that when an educational system fails to meet the psychosocial and emotional needs of the young and falls short of helping them to adopt to the changing social environment, it becomes an arena of perpetual unrest, discontent, and disruptive activities. It is then that the educational center ironically becomes a virtual breeding ground for juvenile delinquency in such forms as violence and drug abuse.

The phenomena of truancy, vagrancy, street children, and gang subcultures are often results of negative peer-group influences. When juvenile members of disturbed families or those rejected by the educational system form a gang, they often indulge in various forms of vandalism, street fighting, collective aggression, violent acts, sex-related offenses, and organized criminality. The initial feeling of guilt within the juvenile is submerged within a sense of security in the status and outlet he finds as a member of a gang. Driven away from the conventional milieu, the juvenile visualizes the attainment of his goals through illegitimate means.

In addressing this problem, various intervention measures

against juvenile social deviance are being successfully tried out in the school setting by several countries—at the individual and group levels. While individual-oriented approaches are devised to assist juveniles in distress or at risk by way of counseling, guidance, referral, and others, group-oriented endeavors are directed toward character-building and the development of social, moral, and civic values.

**The community.** In many countries, local communities identify, support, and develop a wide range of services for the young as a supplement to the efforts of the family, the school, and the state. Because juvenile delinquency is, to a certain extent, a by-product of the disorganizational process affecting the wider social system, its prevention and control depend on the involvement of the community and public at large.

In a climate of democratic participation in policymaking and program implementation, the community and its institutions can offer a framework for inter-generational communication. Only through manifest conviction, commitment, and collective community initiative can the various conditions responsible for crime be effectively curbed (*Ibid.*: 14). The solutions worked out by the voluntary organizations, which

represent the conscience of society, are not only cost-effective but are also more successful in the long run. The thrust being provided through voluntary organizations toward crime prevention in some countries by way of awareness-building, preventive education, counseling and guidance, treatment, after-care, rehabilitation, and others, is a splendid example of community action (*Ibid.*: 15).

**The mass media.** In the classic book of behavioral psychology entitled *Hidden Persuaders*, the author, Vance Packard (1961:1-3), proves through concrete case histories how mass media has been subliminally influencing the purchasing preferences of consumers. This subliminal effect has transcended the field of consumer ads and has invaded the very character of individuals. Repeated surveys of prison inmates from various countries show that mass media, in one way or another, have some influence in the development, or shall we say deterioration, of character of many convicts.

The mass media system has been developed to such a degree that influential men from the academe have even gone so far as to say that mass media constitute today's most influential educator. This gives us pause. And this should give pause to the practitioners in mass media—to reflect on the

awesome responsibility that rests on their shoulders. In a way, mass media can make or unmake society.

### ***Transnational approaches***

**Vis-à-vis crime and corrections of the UN Crime Congress.** Crime is no longer considered merely a domestic issue of a particular country. It is increasingly becoming, especially in its newly emerging forms, more of an international criminological event. In this context, the Quinquennial UN Crime Congress represents an ideal forum for the exchange of knowledge and experience on crime among various countries and for formulating principles, strategies, and guidelines to tackle the problem of crime, on the basis of certain universally acceptable human values and social standards.

The need for the UN intervention in criminal activities has further accelerated with the globalization of life in the modern world. The will on the part of various countries to cooperate with each other through UN in order to effectively respond to the threat of crime is candidly reflected in the adoption of a number of international instruments. The main areas covered, as far as crime is concerned, are crime prevention, law enforcement, prevention of cruelty and concern for victims, human rights, criminal procedure, and juvenile justice (Singh 1992a:3).

**Interpol.** The Interpol is an international police organization based in France, with representatives from various countries.

It handles cases of international significance. However, there are exceptions. It does not handle crimes that are political, military, religious, or racial in character such as the expression of certain prohibited opinions, insulting authorities, offenses against the external security of the states, desertion from the armed forces, espionage, practicing a prohibited religion, membership in a racial association, and acts committed by politicians in connection with their present or former political activities.

The Interpol holds that the categorization of an act as a *political offense* is not necessarily a bar to extradition for crimes of terrorist violence under existing international conventions.

**World philosophies on corrections.** Since ancient times, man has sought to strike a balance between crime and punishment. Mortimer J. Adler (1976:184-185) points out that in the process, man has developed two fundamental theories of corrections. One school of thought teaches that corrections are *retributive* in nature; while another school maintains that corrections should be *utilitarian* in essence.

The philosophers Kant and Hegel advocate the retributive theory. For them, there should be punishment through fine or imprisonment, that is, "punishment in purse or person." The retributive aspect abides by the doctrine of vengeance: "An eye for an eye, and a tooth for a tooth" (Deuteronomy XIX:21). For Kant and Hegel, punishment serves no other purpose except this.

Meanwhile, Plato, the ancient Greek philosopher, argues for the utilitarian theory of corrections, stating that it is meant for reforming criminals and deterring others from doing similar criminal acts. He believes that it would be unrealistic for the community to retaliate against the criminal for past and irremediable acts as that would be retrospective. The concentration, he says, should be prospective, that is, corrections should look toward the future: to prevent the criminal and others from committing the same act.

Another Greek philosopher, Socrates, distinguishes between criminals who are curable and can be improved by punishment and criminals who appear incurable. He says that the latter, in serious cases, should be subjected to the punishment of death. This is the ultimate in crime prevention: prevent not just the commission of the crime but also the existence of the person who may further commit crimes.

The great European anchorman of scholastic philosophy, Thomas Aquinas, pursues an eclectic method: combine, to a certain extent, the retributive and utilitarian theories, draw out the best of each, and weave a solid synthesis that has withstood the test of centuries. The moral order, according to Aquinas, requires that penalty be imposed to right wrongs. However, the method of application should be in such a way that the system provides for the reformation of the criminal and enhances deterrence—to keep him and others from committing similar acts.

Our present correctional system combines all three elements as embodied in scholastic philosophy: retribution, reformation, and deterrence.

**UN Standard Minimum Rules.** The Quinquennial UN Crime Congress was responsible for the drafting of the “United Nations Standard Minimum Rules (SMR) for the Treatment of Prisoners” in 1955. These are the most significant rules propounded by an international body because they constitute the core of the penal policy all over the world (Singh 1992a:3).

The rules came mainly in response to the brutal detention and dehumanizing prison conditions in some countries. There is no doubt that, taken in their entirety, the rules lay down a

comprehensive framework for a humane treatment of offenders subjected to incarceration. The instrument provides a rationale to and a perspective toward the use of imprisonment as a correctional device in the criminal justice process. The underlying principles have a global appeal and form a basis for all countries to act upon, in keeping with their cultural background and local government. The basic premise of the rules is unobjectionable and logically sound.

It has been clearly accepted in the preliminary observations of the standard minimum rules that, in view of the great variety of legal, social, economic, and geographical conditions of the world, not all of the rules are applicable in all places and at all times. The signatory nations are, however, expected to endeavor to overcome practical difficulties in their application. All countries are further expected to share the views that (a) imprisonment and other measures which result in cutting the offender’s access to the outside world are justifiable only from the viewpoint of the protection of society against crime; and (b) the period of imprisonment should be used to ensure, as far as possible, that upon his return to society, the offender is not only willing but also able to lead a law-abiding and self-supporting life (*Ibid.*: 14).



## **Conclusion**

Crimes result in human, social, and financial costs to victims and society. The human and social costs of crime are difficult to define with precision. Nevertheless, a country's direct response to such costs is its criminal justice system, of which crime and punishment are its primary ingredients.

Each country evolves its criminal justice system in accordance with its own indigenous situation and pattern of life. Its development is directly influenced by the level of public awareness and the prevailing socio-economic and political conditions. Inevitably, the system has to respond to local needs, priorities, and perspectives. Despite the adherence and commitments to certain common principles at the international level, each system naturally acquires a native character in form and content. But the fact remains that, in the world today, no country can really be immune from the developments and changes beyond its borders. There is

much to learn from the experiences of other countries. This is particularly so among the developing countries, most of which are still struggling to overcome their basic problems of poverty, hunger, and disease. These countries are certainly in an advantageous position to learn from the omissions of those which have already undergone the pangs of development and have to face the damage of lopsided development. Viewed from this angle, the principles of human rights, social justice, fairness, and equity in the administration of criminal justice assume a special meaning for a developing country like ours. In closing, this focuses the timely relevance of the often quoted phrase of Sir William Schwenck Gilbert in his work entitled, "Mikado":

*My object all sublime  
I shall achieve in time  
To let the punishment fit the  
crime.*

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