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# 'The Highest Crime of All.'

G.H. Boehringer

I am not going to discuss at any length the question whether imperialism is itself a crime, although I think it clearly is. I want instead to discuss the function of criminology in the imperialist context, and specifically the period we can call the transition to neo-colonialism. I will refer particularly to Papua New Guinea, but shall preface that with some remarks about the history of criminology in the Third World. And specifically I shall make some comments about the origins of that criminology in the British colonial past in Africa.

But before doing that, I want to return briefly to the idea that imperialism is [itself] a crime because it can highlight some very important points I wish to make about the nature of crime and coincidentally the function of criminology.

The first and fundamental point is that crime is what the power structure in a society determines it to be. (1) In a capitalist society crime will be what the ruling class wishes it to be. In the context of imperialism, since the ruling class is engaged in imperialist behaviour, quite obviously it would not be considered — by them — a crime. (2)

There may be other ways of approaching the concept of crime, and Chambliss provides a good comprehensive discussion. (3) Nevertheless I have chosen to concentrate on the fundamental, underlying determining factor in the designation of behaviour as crime. Further, such an analysis provides us with the basis of understanding aspects of crime, criminology, and the link to imperialism which otherwise would be blurred or, from my point of view upside down.

Thus the designation of acts (and generally speaking not omissions (4)) as criminal has to do with power and profit just as does imperialism. Any my argument is based on that parallel.

Imperialism, perhaps the highest crime of all — and here I use crime in the common or layman's sense of the word, implying anti-social effects — involving as it has every kind of imaginable crime including genocide as in Tasmania, and which in a sense became a way of life for whole nations, though primarily benefitting the ruling class, was not designated as criminal behaviour. To make matters worse, the real criminals, the colonisers, then set themselves up to judge the criminality of those upon whom they wreaked such havoc.

It is here that we may begin to consider the link between imperialism and criminology, and specifically what I have referred to elsewhere as "official mainstream criminology" O.M.C. (5) I shall go back in time a few decades to describe some developments in social science in Africa which provide the basis for our analysis. And in doing so shall indicate a very interesting link between criminology in Africa, Papua New Guinea, Australia and Japan.

In a previous lecture in this series you have discussed the usefulness of anthropology to imperialism, particularly in the modern era e.g. by the Americans in Thailand. (6) I shall not therefore develop that idea any further; but I would like to mention the seminal article by Gough in which she pointed out the effect imperialism had upon anthropology and referred to the discipline as "the child of imperialism". (7)

The argument I shall make is that criminology in the Third World is, in a sense, the grandchild of imperialism, the parents being anthropology and law. Both these disciplines are, of course, essentially positivist, functionalist, and very strongly value laden. Both were ( and continue to be ) useful to the imperialist powers. (8)

### **The Ancestry of Third World, Particularly African, Criminology.**

I will limit this discussion to the British background, and will do so briefly because of the excellent discussion by Cohen which is available. (9) In his paper Cohen shows that British criminology has its base in and, until quite recently, has been dominated by law and medicine (primarily psychiatry). He also points out that it has lacked a substantial sociological component, at least in terms of theory. (10) And as point out by Carson and Wiles, British criminology has been well within the tradition of British pragmatism and social welfare empiricism. (11)

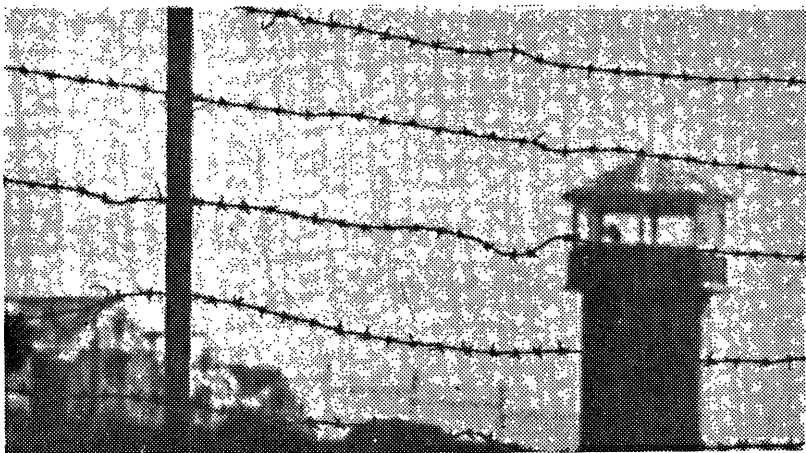
While it is not clear how much influence British criminology had upon the administration in Africa, it is fair to assume that it may have had some at least in helping to establish an ideology supportive of criminal justice under colonialism. Certainly after World War II and particularly during the transition to neo-colonialism, British criminology had a strong influence which continued well into the neo-colonial period. Indeed it still dominates criminology in Africa. (12)

Thus the geneology of African criminology is a very unsavoury pot-pourri, and appears quite incestuous as well: British criminology – based in the repressive social welfare tradition; British anthropology – hand in glove with imperialism; British colonial law – repressive, stemming from a very narrow, conservative, anti-intellectual, positivist tradition.

This combination, however, does not seem to have been greatly needed in a direct repressive role prior to World War II. In the long colonial night preceding the war there was no function for criminology – the masses were well contained, and any kind of resistance to the regime was thoroughly crushed. What crime there was was dealt with in the main by putting offenders to work for the administration e.g. on prison farms, road buildings, etc. (13)

During the pre-World War II period there were basically two kinds of criminology, governmental reports on the administration of criminology (14) and some "amateur" reflections by colonial officers such as Driberg, who wrote perceptively on African Law and crime and became an anthropologist at Cambridge. (15)

Criminology in Africa began to develop in a more academic and self-conscious way after World War II, and it was in no small part due to the efforts of William Clifford about whose role I will have a good deal to say, for he provides the link between countries mentioned above. And by looking at his career and his work we may gain a better idea about the function of



criminology and criminologists. In a paper written about problems of criminological research in Africa, he pointed out how little had been done, and how much there needed to be done urgently. (16) And, most important for our purposes, in that paper he discusses the social scientific work upon which criminology could build, particularly social anthropology. (17) As he points out, most of it was anthropology with a strong sociological component. And, not surprisingly, a great deal of it dealt with aspects of labour migration and integration, urban issues and social control.

The most significant point about this anthropological work is its location: Clifford here cites the famed anthropologist Max Gluckman, to the effect that "In the last twenty years we have acquired a knowledge of the peoples of British Central Africa that cannot be surpassed for any other part of the Continent". (18) This research was carried out at the very centre of British colonial domination. Indeed, much of it was based at the Rhodes-Livingstone Institute, the funding of which came primarily from big business, that is the profits of colonial exploitation, and from the colonial government. (19) And, as it happens, Clifford was the founder and first Principal of the Oppenheimer College of Social Service in Lusaka. This institution was, I believe, funded by Harry Oppenheimer the hugely wealthy "liberal" South African businessman. It has been Oppenheimer who for years has been calling for some liberalisation of the apartheid policy so that the Blacks can be co-opted into a stable and prosperous future – for him and his class. (A somewhat similar process to that of the development of a welfare state complete with various social welfare (service) schemes.) Social Affairs of the colonial Government of Northern Rhodesia (now Zambia), where he did a certain amount of criminological research. In view of his subsequent activity in Papua New Guinea, (20) it is an interesting coincidence that, like Papua New Guinea, copper is Zambia's largest money earning export.

## **Criminology, Imperialism and the Australian Institute.**

Clifford has become Director of the Australian Institute of Criminology, and one of his major efforts not long after his appointment was to go to Papua New Guinea: first to study problems of urban crime in Port Moresby, then to be one of the experts at – and primarily responsible for – a major symposium on crime in developing countries.

At this point I want to briefly outline what I believe to be the significance of Clifford's activity in the Pacific Copper Belt. To do this, we must go back to the early 1960's in the territory of Papua and New Guinea. Pressures of several kinds – internal and external, political, economic and defence – were building up on the Australian Government to bring the territory to Independence. Thus, the 1960's became the period of the transition to neo-colonialism: "political independence" in the context of continuing domination economically and for security purposes by Australia.

Prior to the early 1960's there was ferocious racism supported by a vast array of discriminatory legislation. (21) But this stood in the way of creating the necessary black bourgeoisie. (22)

The legal system of discrimination was dismantled, and along with increasing expenditure on education, efforts were made to develop a system whereby a black ruling class would be developed and maintained and reproduced. Other policies were developed to ensure cheap labour, historically "Really rather like slavery" according to a recent comment. (23)

The maintenance of the ruling class and its interests needed to be guaranteed by a combination of force and ideological oppression. Thus in the mid-1960's the police were re-organised and efforts commenced to develop their efficiency and professionalism. (24)

In the late 1960's and early 1970's a great deal of academic work – and administration interest – in the area of law enforcement, social control criminal law, etc. began to appear.

Not surprisingly this came from: anthropologists, colonial officers and a mixed bag of Western, mainly legal, expatriates. (25) Considerable importance was in fact attached to obtaining a criminologist for the law faculty, and the present writer was in fact hired (in 1971) although the appointment was not taken up.

### **The Japanese Connection**

While one does not wish to pile coincidence upon coincidence (but are they really), it is interesting that Clifford was formerly Senior Consultant at the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders in Tokyo. Japan is, of course, becoming very much involved economically in exploiting Papua New Guinea (26)

It is rather mystifying how a man who could hold a position as a criminologist in Tokyo could recommend Japan as a possible developmental model for African nations concerned about their crime problems. (27) Surely the strong links between the Yakusa or big criminals, big business, the ruling party and the Shinto religion would have been well known. (28)

## To Conclude

Criminology, particularly of the official-mainstream variety, as practiced for example by Clifford, is not really crime control as it is billed, but is fundamentally class control. (28)

The use of criminology is clear when we consider its ideological and mystificatory functions. It assigns criminality to the working class and provides the justification for the development of the police riot squads which recently flew to Bougainville in order to protect the interests of Bougainville Copper. (30)

## NOTES AND REFERENCES

1. See R. Quinney, "Critique of Legal Order". Little Brown and Company, 1974, chapter 5.
2. See J. and J. Schwendinger, "Defenders of order or guardians of human rights?" In I. Taylor, P. Walton and J. Young "Critical Criminology". Routledge and Kegan Paul, 1975, pp.113-146, esp 136-8.
3. See W.J. Chambliss, "The State, the Law, and the Definition of Behaviour as Criminal or Delinquent" in D. Glaser, "Handbook of Criminology." Rand McNally, 1974, pp. 7-43.
4. Omissions by and large are not punishable as crimes, see e.g. J.C. Smith and B. Hogan, "Criminal Law" (2nd ed.). Butterworths, 1969, pp35-7. It occurs that this relates to the kinds of omissions that the ruling class might be guilty of - failure to see that there are adequate jobs, health facilities, houses, education, etc for the mass of people. This is an area that requires further research going beyond the traditional discussions of *actus reus*, *mens rea* and duty to act. See the valuable discussion by A. Fraser "Sackville, Poverty and the Law". *Arena*, No.42, 1976, pp.3-10. Of course, omissions have formed the basis of tortious liability, especially in the period of the development of "modern capitalism", see e.g. Lord Atkin's famous speech in *Donoghue v. Stevenson* [1932] A.C. 562 at 580. This difference between tort and crime respecting omissions highlights the need for a political economy of crime, see generally I. Taylor, P. Walton and J. Young, "The New Criminology" pp.268-282. Routledge, Kegan and Paul, 1973. And, on the value of studying omissions generally, see P. Anderson, "Components of the National Culture" in A. Cockburn and R. Blackburn, "Student Power". Penguin, 1969, 218-234.
5. G.H. Boehringer, "Alternative Criminology and Prisoners' Movements: Partnership or Rip-off". *Alternative Criminology J.*, 1 (1) 1975, pp.32-35.
6. See generally J. Stauder, "The "Relevance" of Anthropology to Colonialism and Imperialism". *Race* 16(1) 1974, pp.29-51.
7. K. Gough, "Anthropology and Imperialism". *Monthly Review* 19(11) 1968 pp.12-27.
8. With regard to anthropology, see generally T. Asad, "Anthropology and the Colonial Encounter". Ithaca Press, 1973. The function of law in the colonial period is usefully described by R. Seidman, "The Reception of English Law in Colonial Africa Revisited" *Eastern Afric L.Rev.* 2, 1969, p.47.
9. S. Cohen "Criminology and the Sociology of Deviance in Britain". P. Rock and M. McIntosh, "Deviance and Social Control", Tavistock, 1974, pp.1-40.
10. And see Anderson, *op.cit.*
11. W.G. Carson and P. Wiles "Introduction". *Crime and Delinquency in Britain*

- Martin Robertson, 1971, pp.7-12.
12. See C.H. Boehringer, "African Criminology: Towards the Necessary Dialogue". *East African L.J.* 11(1) 1975 pp81-87.
  13. See Lord Hailey, "An African Survey" pp.624-628. Oxford Uni. Press, 1957. See also A. Paterson, "African Prisons and Prisoners". *The Listener*, 29 June 1939 pp.136-7
  14. See (e.g.) R.B. Seidman *Ghanaian Prison System: An historical perspective*, n A. Milner. *African Penal Systems*. Routledge and Kegan Paul 1969.
  15. See J.H. Driberg, "At Home With the Savage". *Horror*, 1932, Chap 1 and epilogue.
  16. W.K. Clifford, "Problems in criminological research in Africa south of the Sahara". *International Review of Criminal Policy*. 23, 1965, pp.11-17.
  17. In that paper and more so in another publication, he discusses at considerable length work done in psychology and psychiatry. The material upon which a substantial amount of the discussion is based would be most accurately described perhaps as in the tradition of Jensen and Eysenck but before their time. A fair bit of it is, in fact, South African research carried out by Whites upon the Blacks, see W.K. Clifford, "Crime and Criminology in Central Africa". T. Grygier et al, "Criminology in Transition", Tavistock, 1965, pp.210-32.
  18. Clifford, *supra* note 16, p.11
  19. See R. Brown, "Godfrey Wilson and Rhodes Livingston Institute" in Asad, *op.cit.*
  20. See G.H. Boehringer, "Imperialism, Development and the Under-development of Criminology". *Melanesian Law j.* (Forthcoming, 1976).
  21. See E.P. Wolfers, "Race Relations and Colonial Rule in Papua New Guinea". A.N.U. Press, 1975.
  22. See N. Sharp, "Niugini: The Politics of Integration" *Arena*, no.27, 1971 pp.3-6.
  23. P. Fitzpatrick, "Really Rather Like Slavery: Colonial Law and the Control of Labour in Papua New Guinea". Unpublished paper, 1976.
  24. See M. Tufman, "The Role of Police in Papua New Guinea". *Australia and N.Z. Journal of Criminology* 7, 1974, pp87-94.
  25. See e.g. the work of J.A. Griffin et al, "Crime Prevention in Papua New Guinea – A Plea for National Planning". Unpublished paper presented to the Crime Prevention Seminar organised by the Australian Institute of Criminology, Port Moresby, 1974.
  26. See generally K. Rowley, "Japan: a New Centre of World Imperialism". *Intervention*, No. 5, 1972, pp.5-46.
  27. See W.K. Clifford, "An Introduction to African Criminology". Oxford Uni. Press, 1974. References to Japan are found at pp.210, 212 and 222.
  28. See my critique of Clifford's "Japanese model", *supra* fn 12, pp99-104.
  29. See G.H. Boehringer, "Criminology in the Third World: Crime Control or Class Control". Paper presented at the Young Nations Conference, Uni. New South Wales, August, 1976.
  30. See N. Sharp, "Bougainville Coppers". *Arena*, No. 38, 1975, pp3-6.