

Summer 1960

Juvenile Delinquency, Maladjustment and Maturity

Manuel Lopez-Rey

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>



Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Manuel Lopez-Rey, Juvenile Delinquency, Maladjustment and Maturity, 51 J. Crim. L. Criminology & Police Sci. 34 (1960-1961)

This Article is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

JUVENILE DELINQUENCY, MALADJUSTMENT AND MATURITY¹

MANUEL LOPEZ-REY

The author is Chief of the Section on Social Defence of the United Nations. Prior to assuming this position, he served as Professor of Law in the University of Madrid, Minister Plenipotentiary to Bucharest, and Visiting Professor and Consultant on Legal Codes in Venezuela, Peru, Chile, Argentina and Bolivia.

In this article, Professor Lopez-Rey appraises some of the principal components of the prevailing approach to the problem of juvenile delinquency. Contrary to the opinions held by many members of the professional groups concerned with this problem, Professor Lopez-Rey contends that there are serious flaws in the theories of "maturity" and "maladjustment," which theories are fundamental to the methods of treatment and legal concepts prevalent in this field. As a result, he holds that the modern approach not only has failed to meet the problem but actually has aggravated it. He considers that little headway will be made in reducing juvenile crime until it is recognized that violations of the law by young people are reflections of prevailing materialistic patterns of life in society and not simply the result of immature or maladjusted personalities.

The author prepared this article at the special request of the Board of Editors in commemoration of the *Journal's* fifty years of publication.—EDITOR.

I. INTRODUCTION

In 1889 the first juvenile court was established in Chicago. This event has generally been considered the ultimate legislative step in a series of protective measures for the benefit of minors, which originated in the last half of the nineteenth century. These measures reflected a trend of new and complex ideas vis-a-vis family, education and working conditions in general, and minors in particular.

The inhuman treatment meted out to children, both as workers and as offenders, particularly in certain European countries and especially since the last third of the eighteenth century, was one of the main factors which gradually led first to a new way of thinking, and second to public opposition to the use of children as a cheap labour force for an exclusively economically minded industrialization. This evolution of ideas led to the formulation of the concept of delinquency as something apart from adult crime.

The humanitarian aspect of the new order of ideas, in other respects not at all free from crude materialism, led more or less simultaneously to the introduction of probation and the juvenile court in the United States. In short, both institutions are related to, and are the result of, the same prevailing trend of ideas. These ideas reflected a

general way of thinking about social values and mores, as influenced by their historical setting.

It is the purpose of this paper to raise the question whether, in view of the meagre results obtained under the prevailing ideas and policies concerning crime and delinquency, the present trend has not already completed or begun to complete its historical cycle. If so, steps for its replacement are necessary. The question is a vast one. Unfortunately, space and time limitations have allowed the consideration of only some aspects of the re-appraisal involved in the suggested revision.²

II. EVOLUTION OF THE TERM "JUVENILE DELINQUENCY"

Under the impact of the protective ideas and policies already mentioned it was considered that whatever the offence committed by a child, he should receive special treatment. This protective attitude found its more general expression in the *Geneva Declaration of the Rights of the Child* of 1928, which was revised in 1948 and reformulated in 1959.³ This trend was later considerably reinforced by a variety of medico-psychological theories which eventually succeeded in replacing the ethico-psychological concept of discernment by a

² This will be done in a more detailed way in our book *CRIME AND DELINQUENCY* on which this paper is based.

³ By resolution 1386 (XIV) of the General Assembly of the United Nations, in December, 1959.

¹ The opinions expressed are the author's and do not necessarily represent those of the Secretariat of the United Nations.

variety of markedly bio-psychological or psycho-analytical theories. From the outset these theories made generous use of terms such as maladjustment, immaturity, needs, anxiety, conflict, rejection, tension and others in the evaluation of juvenile delinquency and the formulation of programmes. These theories were and still are supported or supplemented by *ad-hoc* research projects and inquiries in which the methods of physical or natural sciences are often transplanted, but with dubious practical success. Nevertheless, many of these projects succeed in some countries in getting generous financial aid to pursue further transplantations or imitations of scientific theories and policies.

As a result of these and related theories, which with variations are the product of and therefore fit very well into materialistic societies, children and juveniles, especially in Sweden, the United States and to a lesser extent in England, gradually became regarded as something apart, as a separate group of persons living in a world of their own, unable, because of their lack of maturity, maladjustment or feeling of rejection, to distinguish between right and wrong, or if able to distinguish between these essentials, it was maintained that even in such case, the act committed was legally irrelevant and should be considered as nothing more than a symptom of maladjustment or of a disturbed personality.⁴ In some countries, however, some exceptions were made to these general assumptions;⁵ in others, some unrealistic

legal assumptions were incorporated into criminal law.⁶

More recently, by the transformation of clinical cases into general theories, juvenile delinquency has been explained either as the inevitable result of some unsatisfied needs or internal conflicts, or as the not less inevitable result of certain external factors. Accordingly, will, knowledge, judgement and other related faculties have been practically ignored and replaced by purely emotional or affective situations. Tension, hostility, lack of affection, frustration, anxiety, resentment, lack of schools or recreational facilities, poor living conditions, broken homes, and the like were offered, according to the professional or scientific inclinations of the theoreticians, as general or combined explanations of delinquency. Although some of these explanations have a certain sociological flavour, all of them, including that of maladjustment, are essentially bio-psychological in content and purpose.

As a result of all this, the definition of delinquency as any act which if committed by an adult would constitute a criminal offence came to be regarded as arbitrary, conventional or artificial. Accordingly, the meaning of the term delinquency was considerably enlarged in order to cover practically every possible form of unusual juvenile behaviour or condition. The following examples are significant: "Delinquency consists in behaviour resulting from a failure of the individual to adapt himself to the demands of the society in which he lives."⁷ "Delinquency must be used only to denote a certain behaviour pattern, or a series of behaviour patterns of a juvenile below a certain age, and the behaviour pattern must be such as is generally viewed as non-conformist by a given community at a given time and place within or without the framework of law."⁸ "No distinction should be made

⁴ It is important to note that whereas medico-psychological theories usually are widely accepted and supported in countries with a prevailing materialistic conception of life, in those maintaining an extreme materialism, such as the U. S. S. R., medico-psychological theories are little favoured. Such a distinction, however, does not constitute a contradiction. The explanation is that materialism as a political-socio-economic system presents two extremes, capitalism and communism, which although politically opposed to each other, have some common materialistic features. For capitalism, the most fitting explanatory theories of crime and delinquency are the medico-psychological. They explain rather "satisfactorily" crime and delinquency as an individual phenomenon, and not as the result of the social system. For communism, which is based on a submissive political system and on a collective economic one, any wide acceptance of medico-psychological explanations would imply at least a potential political danger. Therefore, as far as crime and delinquency are concerned, the most "satisfactory" theories and programmes are those implying the acceptance and implementation of Marxian materialism.

⁵ Thus juvenile offenders were, in principle, held responsible when the wrong committed was a serious one such as murder.

⁶ That rape cannot *legally* be committed by persons below 14 years of age may be cited as an unrealistic legal assumption. Although rape is one of the most controversial types of crime, contemporary experience shows that rape can be committed by a boy below this age with full knowledge of what he is doing. As Pearce has aptly stated, this legal assumption is contrary to medical science. For a sexually aggressive boy to know that the law positively protects him if he commits rape comes near to condonation, and to be found not guilty merely encourages him. See PEARCE, *JUVENILE DELINQUENCY* 244 (London 1952).

⁷ REPORT OF THE JUVENILE DELINQUENCY COMMITTEE 19 (Melbourne, Victoria 1956). This report in many respects is of great value; however, in other respects it reflects the confused prevailing ideas on juvenile delinquency.

⁸ THE BUREAU OF DELINQUENCY STATISTICS AND

between juvenile delinquents, juvenile vagrants and minors whose circumstances or behaviour call for protective or reeducational measures."⁹

These and similar definitions, which at present circulate as valid currency, have the following characteristics in common: the greater the degree of conformity, the less the risk of being considered as delinquent; vagueness of the term delinquency, which, by embracing practically any kind of juvenile behaviour, labels as delinquents juveniles who are not; and frequent disregard for any system of social and moral values and of individual guarantees. From a more external point of view, the characteristics are imitation, repetitiousness and superficiality. These latter characteristics give the impression that there is a widespread fashion element in the present approach to the problem of juvenile delinquency.

In the United States a definition of delinquency is sometimes nonexistent. In at least eight jurisdictions, juvenile delinquency is not statutorily defined, but determined by the jurisdictional powers of the court. In most jurisdictions the delinquency statutes include, among others, the following behavior: absenting self from home; habitual truancy; incorrigibility; beyond control of parents; growing up in idleness; use of obscene or vulgar language; wandering about railroad yards; smoking cigarettes or using tobacco in any form; begging; attempting to marry without consent, etc.¹⁰

The result of this loose concept of delinquency is that a great number of minors are labeled as delinquent without actually being such, and submitted to "protective" measures, including institutional treatment, which is widely used. Such a distortion of the concept of delinquency has artificially inflated the volume and gravity of the problem of juvenile delinquency without solving the *real* problem of delinquency.

In the majority of European and Latin American

countries, the forms of behaviour enumerated above are not considered as delinquent, but only as problems which are the concern of the family, or occasionally of a social or mental service. Among other reasons, it would seem that in many of these poor, less industrialized countries, the family has greater cohesion and attachment to moral values, a deeper sense of responsibility and, curiously enough, better understanding of children and juvenile reactions.¹¹ In the so-called highly developed countries, however, the family, under a variety of pressures, relies less and less upon itself and more and more upon external assistance to solve what actually are, in most cases, internal and minor family problems. This tendency to pass family responsibilities to social services or schools has been greatly accelerated (a) by the "scientific" inflation of family problems by certain professional groups and welfare services; (b) by the widespread acceptance of a loose and psychologically overloaded concept of delinquency which embraces practically everything; and (c) by the assumption that what is important is not the correction, rehabilitation or re-education of the child or juvenile, but protection of the child from and against everything. Naturally, this weakening of the family makes it more difficult for parents to cope with their responsibilities.

The widespread theory that the most important goal is to *save* the child or to guard his *welfare* is not only open to serious scientific criticism but also is sociologically harmful to children as well as to society.¹² No doubt, to save children and care for their welfare are noble tasks which should be

¹¹ The problem touched here, which is so closely related to crime and delinquency, is what is the meaning of the term "highly developed country." In international language it is usually understood to mean the economically well developed. From other less materialistic points of view, the definition would frequently be different. As examples, two elements may be mentioned: corruption and organized crime, both of them closely interrelated. In many poor countries, the acceptance of small bribes, which surprises so many people from richer countries, is often a necessity for physical survival. In some highly developed countries, the small individual bribe has practically disappeared and has been replaced by more or less organized graft, kick-backs and commissions which are accepted as current practices and are not related to necessity. With respect to crime, in spite of an almost constant lack of statistics, one may affirm that, as social problems, criminality and delinquency are less serious in less developed countries than in some of the highly developed ones, in which organized and tolerated crime is becoming more important and is seldom reflected in criminal statistics.

¹² Usually the term "child" includes young persons and even occasionally young adults if the upper age limit of 21 is taken into account.

RESEARCH, THE CHILDREN'S AID SOCIETY, A REPORT ON JUVENILE DELINQUENCY IN INDIA 126 (Bombay 1956).

⁹ FIRST ARAB STATES SEMINAR ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS 68 (United Nations Publication, Sales No. 1954. IV. 17). At the Second Arab States Seminar, Copenhagen 1959, the report of which has not as yet been published, the previous point of view has been corrected by making the distinction between delinquents and juveniles in need of protection. Delinquency was defined as an act which, if committed by an adult, would be considered a crime.

¹⁰ COMPARATIVE SURVEY ON JUVENILE DELINQUENCY, PART I, NORTH AMERICA 2-4 (United Nations Publication, Sales No. 58.IV.2).

performed and which have great emotional appeal. The problem, however, is not only to save children but also to correct them and make of them law-abiding citizens. Sociologically, this is the way in which *salvation* should be understood. Apparently, what is currently understood by "salvation" theories and programmes is the satisfaction, as much as possible, of the emotional needs of the child. This view has been expressed in a variety of forms, such as "children should live in a world of their own"; "delinquent children are only maladjusted children in need of understanding, love and protection"; and "the personality of the minor, and not the act committed, whatever its seriousness or even atrocity, is the only thing to be considered." By the introduction of these theories and corresponding policies, the concept of delinquency is stripped of its sociological content and transformed into a label covering, without adequate distinction, an enormous clientele that actually is not always in need of being saved or protected. This does not mean that children should not be protected, but the purpose of this protection is not the satisfaction *per se* of the needs of the child, but, as the *United Nations' Declaration of the Rights of the Child* states, to enable him to develop his individual judgement and his sense of moral and social responsibility, and to become a useful member of society. There is little doubt that the acquisition of moral and social responsibility requires the consideration of aspects other than the purely emotional or psychological. Among the current theories on delinquency, two—those relating to "maladjustment" and those relating to "maturity"—should, in the writer's opinion, be revised. These two theories constitute the prevailing elements in the formulation of policies and programmes in many countries. Our contention is that they are open to serious scientific criticism and that their implementation has not reduced, and in all probability will never reduce, the extent and gravity of the problem of juvenile delinquency. Furthermore, it is our contention that, by weakening the individual as well as the general sense of social responsibility, these theories and related programmes contribute in a very subtle way to the increase of juvenile delinquency.

III. MALADJUSTMENT

To many, maladjustment and delinquency are interchangeable terms. To these persons, delinquent behavior is nothing more than maladjusted behaviour and should be treated accordingly. In spite of its evident popularity, the concept of mal-

adjustment has, as we will try to demonstrate, a dubious sociological and scientific character. It seems to be one of the ultimate products of that materialistic way of thinking according to which conformity and submission to the *Group* is essential, and non-conformist attitudes are looked upon as a social disturbance of a largely accepted way of life. Those exhibiting non-conformist attitudes are supposed to be in need of protection or assistance in order to be suitably adjusted or re-adjusted. This way of thinking implies frequent interference in individual and family life through welfare and other related activities.

(a) *Scope of the term "maladjustment"*

According to contemporary opinion, the term "maladjusted children" embraces the physically handicapped, the mentally subnormal, the retarded, the abandoned, the disturbed, the non-integrated, the deviated, the maladjusted, the orphaned, the vagrant, the juvenile beyond control and the delinquent.¹³

Although the conditions enumerated in the previous paragraph seem to have something in common, there is little doubt that each of them is different, sometimes essentially different, from the others. Thus the fact of being physically handicapped does not necessarily mean inability to adjust oneself to a certain environment or to be already adjusted thereto. Adjustment will depend, among other things, upon the kind of handicap, the character of the person concerned and the environment itself. The same applies to the orphan, the abandoned, the delinquent and all others. Thus it is one thing to become an orphan and another to become a delinquent. The condition of an orphan may lead to some forms of neglect and eventually

¹³ The difficulties of the term "maladjustment" are pointed out in WALL, *EDUCATION AND MENTAL HEALTH* 235-248 (UNESCO, Paris 1955). In this report, however, "delinquency" is placed under "Maladjusted Children." The term "maladjustment" was first used in the 1920's. See *REPORT OF THE COMMITTEE ON MALADJUSTED CHILDREN 3* (London H.W.S.O. 1956). There is no doubt about the success of the popularity of the term. As sequels, already circulating in up-to-date papers, the following terms should be mentioned: "para-maladjusted" and "pre-maladjusted." What these terms mean is hard for the writer to ascertain. With respect to "unadjusted" and "maladjusted," while certain authors regard them as interchangeable terms, others make a distinction. This has been done in *SOCIAL WELFARE IN INDIA* (New Delhi 1955), where two different chapters deal respectively with "Services for the Unadjusted" and "Services for the Maladjusted," the former embracing only beggars. The distinction seems rather dubious. In a recent paper, the writer had the good fortune of getting acquainted with a new aspect of the theory, that of the "pre-natal maladjusted children."

to maladjustment, although not necessarily so. The determining factor may be something which has nothing to do with the personality of the minor, although that personality may later play its part. In the case of the delinquent, it may well happen that the boy or girl is not neglected at all, and that, by being delinquent, he or she accurately reflects some prevailing patterns of life. The term "non-integrated" is a rather elusive one. Non-integration may well be considered on many occasions as a sign of sound moral and social principles. If a boy of 16 years of age refuses to accept the prevailing principles of discrimination rigorously maintained and enforced by his family, social group and even country, should he be considered as non-integrated, maladjusted and eventually as delinquent? Briefly, does the variety of situations or conditions above enumerated justify a standardization of behaviour and judgement as maladjustment? What apparently has happened is that the mere fact of needing, in certain circumstances, some kind of help has been identified with maladjustment. It has apparently been overlooked that well adjusted people may also need help and that some maladjusted people do not require help of any sort.

(b) *Definition*

According to the prevailing trend, maladjustment is the result of the failure to identify oneself with the aims and purposes of a particular group or society, or of the inability to participate actively in conformity with these aims and purposes, or of unsuccessful attempts to achieve individual goals or meet the expectations of a group or society.¹⁴

There is no doubt that the fact of being part of a group or society requires of everyone a certain amount of conformity, acceptance, participation and perhaps achievement. With respect to identification and expectations, we think that they have little, if anything, to do with adjustment.

The question involved is twofold. First, what is the nature of these requirements, and second, what is their extent? Does conformity mean conformity with everything and if so, should it be understood as a total or only a partial conformity?

The answer to these questions is determined by this consideration: the fact of being part of a group

or society does not necessarily require from everyone acceptance of all the prevailing values in the group or society, but only of those having a fundamental governing character, in our case, those usually reflected as provisions of the criminal law. Outside this, and other fundamental rules, persons have a wide sphere of action within which no compulsory conformity or acceptance is required. There are, however, social groups or societies, not always necessarily in under-developed countries, in which, for a variety of reasons, the requirements concerning conformity, acceptance, participation, identification and expectation are considerably extended. These requirements are mostly artificial, imposed by indirect social pressure, and their social, ethical and democratic value is sometimes highly questionable. In such instances, people have to make continuous efforts in order to "adjust" themselves to the new and somewhat artificial requirements or "expectations." This happens especially in those groups or communities where knowledge, techniques and organizational power are directed toward the reinforcement of the pre-eminence of the *Group*, as opposed to the individual, as the source of all good. In these and similar cases, to be socially adjusted or integrated is regarded as essential.¹⁵

In this kind of society the theory of maladjustment, although artificial, is widely accepted because it fits in with other widely accepted patterns of life and ways of thinking. Such would be the case of a society where the glorification of success, especially financial success, is considered as the *ratio essendi* of all and everyone. Therefore people are taught and asked to meet certain "money" expectations and seek recognition accordingly. This "pushing" towards "money success" tacitly implies the accepted widespread use of unethical or more or less illegal practices. Such use, however, is considered normal, and by using and even perfecting these practices, one acts in conformity with an accepted way of life. This inevitably presents two rather contradictory systems of values: the traditional, according to which such practices are not admissible, and the contemporary, by which what is important is to succeed according to money yardsticks.

To what extent are these contradictory ethical attitudes being adopted, in a rather rude way, by

¹⁴ Typical definitions of maladjustment may be found in the following: Burgess, *Mental Health in Modern Society*, MENTAL HEALTH AND MENTAL DISORDER (Rose ed., London 1956); Johoda, *Toward a Social Psychology of Mental Health*, *ibid.*

¹⁵ See FROMM, *THE SANE SOCIETY* (London 1956). See also WHYTE, *THE ORGANIZATION MAN* (New York 1957).

juveniles, and therefore contributing more than anything else to the steady increase of juvenile delinquency? If at different social levels, unethical practices, fixing, rigging, kick-backs, presents, and the like are part of an accepted way of life, the question arises, who are ethically, sociologically and even psychologically more maladjusted: gang or runaway juveniles or adults who, gladly and for money purposes, and after having been well coached in cheating, participate in rigged television programmes? Are these runaway children really more maladjusted than either the adults who organize these rigged programmes or systems of graft or kick-backs, or the children who with the encouragement and consent of their parents participate in rigged programmes which deceive almost everyone? The ironic fact is that while those involved in such unethical and corrupt practices are seldom branded and treated as offenders, juveniles "borrowing" a car, or running away, or smoking without permission, or being more or less difficult, are branded as maladjusted and treated as offenders.

Do we seriously think that the growing gap between ethical and moral values and the accepted practices already mentioned have no effect on juveniles, who not only are fully acquainted with the facts, but also are able, in spite of general immaturity theories, to pass judgement and behave accordingly? It is true that a certain gap of this sort has always and will always exist in different degrees in any country. The question, however, is whether, in some highly developed countries, the gap, instead of being kept within reasonable limits, has not been steadily increasing. It would seem reasonable to conclude that such a gap, when greater than it should be, may explain the corresponding steady increase of delinquency, and for that matter, of crime, better than general theories about needs, aggression, rejection, immaturity, maladjustment and the like.

In view of the foregoing, and other considerations that limitations of space and time do not allow us to examine, the conclusion is that by itself maladjustment is a theory without moral or ethical content. It may be used in any circumstance and for all purposes. In short, by lacking ethical content the theory of maladjustment fits, or may be "adjusted," into any materialistic society. This flexibility is the logical consequence of its materialistic origin and explains its wide accept-

ance by groups or societies in which materialistic success is the primary one.

The fallacy of the theory of maladjustment is corroborated if, besides what has already been said, we ask ourselves these additional questions: Which are the expectations that should be complied with—all parental, family, professional, religious, economic, social and cultural expectations, or only some of them? Which requirements are most important? How should the requirements be formulated in order to be understood? Why should persons failing or even refusing to meet some requirements or expectations automatically be labelled as maladjusted? Why should a person who expresses his non-conformity with technological change and all that it implies be considered, no less automatically, maladjusted?¹⁶

There is no doubt that adaptability and conformity are necessary, but only in a relative way, and mostly with regard to fundamental principles or rules. Outside these, although always taking as a guide these fundamental principles, lack of conformity or adaptability may even be regarded as a sign of a mature, mentally sound person who has a fine sense of social responsibility.¹⁷

In accordance with the prevailing trend of thought on the subject, it is generally believed that good adjustment is the mark of a socialized person, who has been described as "the one who joins with others in defining the objectives of his society and participates in the attempt to realize them."¹⁸ There again we have serious misgivings about the validity of this term and its distinction from that of "sociability." Certainly very few persons are qualified to define the objectives of society, let alone how those objectives should be achieved.

Apparently what has happened is that the term "group" has been identified with that of society but, going further, it is also implied that it is up to

¹⁶ Technological change, expectations of society and socialization of the person are the three always recurring basic elements of the theory of maladjustment.

¹⁷ It is perfectly conceivable that a person may be overtly "maladjusted" with respect even to fundamental prevailing rules or mores, when these are the expression of inhuman or anti-democratic ideologies or mass prejudice.

¹⁸ Burgess, *op. cit. supra*, note 14. The definition continues: "The socialization of the person takes place through social experience in group life. It differs from sociability which is the desire to be in the company of others. . . . Socialization finds the best opportunities for expression in situations of the family and in intimate social groups where the members co-ordinate their individual wishes with the objectives of the group."

the *Group* to set up conformity rules. In a way this would imply the return of social castes. It is true that, indirectly and in a variety of ways, many, but not all people, contribute to the formation of some general aims or objectives; but this is quite a different matter from defining and realizing those objectives. In their appropriate sense these tasks are usually undertaken by a variety of persons, parties and organizations with different characteristics and purposes, and not by everyone, be he socialized or not. There is no doubt that being "socialized" makes it easier for one to be successful and to achieve individual well-being according to certain patterns. It is also, to some extent, a sign of good mental health. However, it is also true that particularly in certain *Groups* or societies the "socialized" person, *i.e.*, the person who joins with others in defining the objectives of his or her *Group* and participates in the attempts to realize them, is not necessarily well adjusted or even enjoying mental health. In particular one may wonder whether the lack of personal, family or professional "adjustment," or to some extent of mental health, is not one of the main reasons why some of the "socialized" persons, usually women, participate in "socialized" life, for example, by being "active" in various committees, agencies, and campaigns, all of which more often than not, aim in one way or another at defining objectives or at guiding the *Group* community, while the family is neglected or practically ignored. On the other hand, it should be admitted that the non-socialized person, who does not participate in "defining," "achieving" or "realizing" objectives, but who simply remains apart or even aloof and devotes his time exclusively to the family, may be sound and stable and a far more reliable person.

With respect to the satisfaction of needs as another prerequisite to adjustment, the first question to be raised is, what are the needs that if not satisfied will lead to maladjustment? These may range from a variety of material needs to emotional, moral and educational needs. To what extent should all these changing needs be satisfied in order to prevent maladjustment? If satisfied at any particular moment, will this satisfaction ensure permanent adjustment? Obviously not.¹⁹ The satisfaction of the needs under consideration will be a

permanent process, and there will therefore be a no less permanent maladjustment. Actually, experience shows, first, that a reasonable satisfaction of these needs will not prevent either crime or delinquency, and secondly, that people with unsatisfied emotional or other needs do not necessarily become delinquent or criminal.

In short, it seems that although related to certain activities of human behaviour, conformity, participation, socialization, expectations, satisfaction of needs and the like cover too wide a range of modalities and aspects to be reasonably regarded as the basic elements of any theory, such as that of maladjustment. Their acceptance would ultimately lead us to regard as maladjusted the person who refuses to participate in racial or religious persecutions or prejudices or in antidemocratic ideologies or movements prevailing in a particular community or society. In these and similar conditions, in accordance with the maladjustment theory, it would be quite in order to use the services of social workers and/or psychiatrists to reform such a person.

A second question is: are there any particular causes of disturbance that by themselves lead more or less automatically to maladjustment and delinquency? According to the prevailing trend of thought, the answer is yes. The causes of disturbance most mentioned are: disapproval, frustration, dissatisfaction, tension, hostility, lack of affection, aggressiveness and conflict. We do not have the space to examine here all these alleged causes. Suffice it to say that all of them are in different degree inherent in human personality and behaviour, and therefore normal features of both of them. Thus psychologically normal persons may well be aggressive and hostile to a certain extent. It has been pointed out that in identifying tension between individuals with tension within the individual's mind, some psychoanalysts are trying to identify two different phenomena: what is normal or pathological in psychology, and what is normal or pathological in sociology.²⁰ Furthermore, if it is remembered that not all people suffering from tension, aggressiveness, conflict and dissatisfaction

¹⁹ A report of the United States Senate, which report is excellent in many respects, aptly states: "The child who has all his needs satisfied will never grow." *Report of the Committee on the Judiciary, Juvenile Delinquency*, S. REP. No. 130, 85th Cong. 161 (1957).

²⁰ See LOPEZ-REY, INTRODUCCION AL ESTUDIO DE LA CRIMINOLOGIA 190-223 (Buenos Aires 1945), where by differentiating between psychological and sociological abnormality, the author denied a purely psychological or psychoanalytical conception of criminology and therefore of crime and delinquency. See also Aron, *Conflict and War from the Viewpoint of Historical Sociology*, THE NATURE OF CONFLICT 178-79 (UNESCO 1957).

necessarily become delinquents or criminals, it may be concluded that these elements, whatever their intensity, cannot by themselves explain crime and delinquency, although undoubtedly they can explain very well certain individual cases of crime and delinquency.

The third and final aspect we have to bear in mind is that, when referring to the environment, we are actually referring to a variety of environments in everyone's life. These are differently inter-related, and each of them may act and be acted upon in a different way. In other words, each environment requires in everyone's daily life different kinds of adaptations, or, to use the terms criticized here, of adjustment, re-adjustment and maladjustment. The respective length of these periods of adaptation differs according to a variety of circumstances. It would be normal to be better adapted or relatively adapted to a particular environment and less adapted to others. These adaptation or non-adaptation degrees or levels which constantly appear may well disappear by themselves or balance each other. This explains why quite a large number of juveniles withstand a variety of forms of "maladjustment" without requiring, fortunately for them, any kind of social welfare assistance or without becoming social problems.²¹

We come then to the conclusion that the answers to the question—adjusted to what—are as vague as the theory of maladjustment itself. In fact, as far as crime and delinquency are concerned, the only possible answer is to be adjusted to criminal law. Only persons who have committed an offense should be considered as really "maladjusted" if this term is still considered as necessary. Below this legal adjustment or conformity there is a variety of forms of behaviour which may or may indicate a need for assistance or help, not because they show "maladjustment," but because, sociologically or medico-psychologically, the persons concerned are really in need of some kind of help. As stated, crime and delinquency are not expressions of maladjustment, but rather of adjustment. In many varied ways, crime and delinquency

reflect, sometimes very accurately, the prevailing patterns of life in a group, community or society.²² Therefore, rather than being the result of the traditional criminogenic factors, or of what is called by some "abnormal adjustment," they are natural or spontaneous forms of adjustment to some accepted patterns of life.²³ Whether or not these patterns are considered as sub-cultures is irrelevant here.²⁴ It should be pointed out that the fact that crime and delinquency are manifestations of adjustment does not make them more acceptable than if they were manifestations of maladjustment. Sociologically, more than anything, crime and delinquency are, in the majority of cases, expressions of a learning process in which imitation and transmission of beliefs and attitudes, in accordance with certain patterns of life, play a rather decisive role.²⁵ It is important to remember that, contrary to widespread belief, the patterns of life, as well as the attitudes that are imitated, are not always part of the immediate environment of the person imitating them. This explains some of the common characteristics in the juvenile delinquency of different social groups and countries, which are far apart and have different backgrounds and standards of living. This imitative process, which is part of the more general question of the importance of individual and collective attitudes as sources of crime and delinquency, explains far better than the theory of maladjustment (a) the spread of delinquency among juveniles belonging to the more well-to-do groups; (b) the growing gravity of juve-

²² For this reason, it would seem inappropriate to consider in a general way crime and delinquency as forms of "social pathology." This term, as well as those of "social deviation" or "social disorganisation," have a rather dubious scientific value especially when, under such curious labels, physical deformities, visual and hearing disorders, poverty, low income, crime, delinquency, drug addiction, floods and other very dissimilar things are lumped together in the most empirical way. Some of these facts or conditions are neither pathological or deviated, others are not at all anti-social or disorganized. In her rather recent and in many respects refreshing book, B. Wootton has correctly criticized this lumping together. However, she uses the term "social pathology" and puts forward a definition of social phenomenon which from our point of view is not convincing. See WOOTTON, *SOCIAL SCIENCE AND SOCIAL PATHOLOGY* (London 1959).

²³ Although attractive, the thesis of "abnormal adjustment" put forward by some tends to make the question of maladjustment still more confusing, by bringing in such a controversial term as "abnormal."

²⁴ Culture is neither uniform nor equally distributed. Therefore, the term "sub-culture" seems to have a rather vague meaning.

²⁵ This has also been pointed out, even with respect to normal boys, by the United States Report cited *supra*, note 19 at 139.

²¹ Among other examples, the evaluation of the Cambridge Somerville Youth Study shows that boys may well overcome by themselves quite a number of so-called maladjustments for which immediate help and assistance and naturally more social services are recommended. Similar points of view to that of the text may be found in *EDUCATION AND MENTAL HEALTH* 238 (UNESCO, Paris 1955), and *REPORT OF THE COMMITTEE ON MALADJUSTED CHILDREN* 10 (London H.W.S.O. 1956).

nile offences; and (c) the increase in delinquency in rural areas which have remained virtually unchanged, socially and economically. Also it raises the question of the advisability of making any distinction between crime and delinquency as two different concepts.²⁶

From the foregoing, the following conclusions may be drawn:

(a) As a theory, maladjustment has no specific content or purpose. It may be used for any kind of materialistic conception of life and tends to justify what morally, ethically or legally should not be justified. Psychologically, it implies the weakening, if not the nullification, of human personality and an almost complete disregard for the concept of person. Politically and administratively, it offers solid ground for the introduction of conformism and authoritarian ideologies and systems.

(b) As a term, "maladjustment" is more conventional or arbitrary than any legal definition of juvenile delinquency, without offering any of the guarantees of this definition.

(c) Actually, everyone is somewhat maladjusted, occasionally seriously maladjusted, without, however, being in need of help or assistance. Many aspects of life require from everyone a constant effort of adaptation, while others do not require any kind of adaptation at all. We may well remain more or less maladapted for long periods of time without becoming anti-social or deviated. This means that not all aspects of life have to be "adjusted" to something else. Otherwise, we would be slaves in every respect. In fact, there is often a need for a normal, natural and healthy gap between one's adaptation to an existing situation and the better adaptation for which one strives, when this is really needed. People cannot be "adjusted" in every respect, like riveted bolts.

(d) As a policy, the theory of adjustment does not provide for greater security. In other words, "adjusted" persons do not necessarily always feel more secure than "maladjusted, "unadjusted" or "disadjusted" ones. Actually, normal persons never feel completely secure. In fact, a normal person is one who, to a certain degree, feels somewhat secure in insecure situations and also to a

certain degree insecure in secure situations. The same applies to the satisfaction of emotional needs, and the avoidance of feelings of frustration, rejection and the like. Satisfaction of all emotional requirements would lead to a security which would actually be abnormal, unhealthy and antisocial. To a certain extent this achievement of "too much" security is what is happening with juvenile people in certain countries. In some respects these juveniles are too "satisfied" and too "secure" as a group.

IV. MATURITY

Another aspect of the prevailing trend, in some respects older than that of maladjustment, is the replacement of the concept of discernment by a system of lower and upper age limits. The upper age limit is the dividing line between the protective jurisdiction over minors and the jurisdiction applicable to adults. The tendency to raise this limit higher and higher is considered by many as a progressive trend. Some of its supporters have already stated that by advancing this upper age limit, the existing system for minors will eventually become applicable to adults. Accordingly, during the last decade or so, the efforts to reach such a goal by raising the upper age limit has become more and more pronounced. Thus the European Social Welfare Seminar held in Paris in 1949, after having apparently rejected the concept of normal children—"so-called normal children" was the term used—and noting that adjustment was the best way to prevent delinquency, decided that "in European countries, or at least in countries with Western civilization, it is desirable that full age for the purpose of penal law should not be fixed below the age of 18 years. . . . [I]t seems that in general adult ways of thought and behaviour cannot be considered with any certainty as being acquired before the age of 18." Furthermore, it was stated that the term "juvenile delinquent" escapes purely legal definition; that owing to maladjustment there was no difference between delinquent and maladjusted children and that the same treatment was suitable for all children.²⁷

²⁷ EUROPEAN SOCIAL WELFARE SEMINAR (United Nations Publication, Sales No. 1950.IV.9). As far as juvenile delinquency is concerned, the conclusions adopted at this seminar seem to be sweeping and conclusive. For a sobering contrast, see REPORT OF THE EUROPEAN EXCHANGE PLAN SEMINAR ON THE INSTITUTIONAL TREATMENT OF JUVENILE OFFENDERS (United Nations Publication, Sales No. 1955.IV.13). In this seminar, held at Vienna, overgeneralizations were avoided and no "final" conclusions were drawn.

²⁶ See Lopez-Rey, *La prevention du crime et le traitement de la jeunesse delinquante. Tendances internationales*, XIII REVUE INTERNATIONALE DE CRIMINOLOGIE ET POLICE SCIENTIFIQUE 13-16 (Geneve, Janvier-mars 1959). See also the lecture given by the author on *New Approaches to Criminology*, INTERNATIONAL COLLOQUIUM ON CRIMINOLOGY (Copenhagen, October 1959).

Later, and for similar reasons, the limit of 21 years came to be considered as the most suitable. It has been adopted by several countries and has been strongly recommended at many conferences. More recently, the same "progressive trend has recommended the age of 25 as the most desirable upper limit.²⁸ This constant raising of the limit has led to an artificial division of people by age: children below a minimum limit, juvenile delinquents, young adult offenders and adult offenders. Substantially, the reason given for this classification is lack of maturity. Corollaries of this point of view are the following: (a) arbitrariness of the legal definition of juvenile delinquency; (b) the concept that minors live in a world of their own; and (c) the idea that the personality of the minor and not the nature of the act committed by him is the only thing to be considered.

Before entering into an examination of these different aspects, let us say something about the main reason for progressively raising the upper age limit, *i.e.* the lack of maturity. No doubt there is a relationship between age and maturity, but while in the past it was accepted as obvious that as a general rule the greater the age of a person, the greater his maturity, nowadays, under apparently more progressive scientific trends, it seems to be thought that an increase in age does not bring greater maturity. Consequently, the upper limits of 14 and 15 years have gradually been replaced by those of 16, 18, 21 and 23 years; more recently, the 25 year limit has been advocated.²⁹

²⁸ Information about ages, and therefore groups, may be found in issues 7, 8 and 11 of *INTERNATIONAL REVIEW OF CRIMINAL POLICY* (United Nations Publication, Sales No. 1955.IV.10).

²⁹ In France, the "Société générale des prisons et de législation comparée" has for some time discussed a draft statute for young adult offenders which would set the upper age limit at 25. More recently, the age of 30 has been put forward by a Belgian writer as the one marking the border at which maturity begins. In the United States, the treatment provided under the *Federal Youth Corrections Act* may be applied to persons between 22 and 26 years of age. (Public Law 85-752, 1958.) Actually, the upper age limit question is not a new one. The Spanish theologians and jurists examined the question centuries ago. Although still very much under the influence of Roman law, some of them mentioned as a desirable limit that of 16 years. Others, like Antonio Gomez, considered that of 25 years as a general extenuating circumstance. It should be noted, however, that the juveniles and young people of the sixteenth century were, in the majority of cases, illiterate and did not have at their disposal all the varied forms of mass communication that the same kind of people nowadays have at their disposal. The basic point for theologians and jurists was the theory of discernment which was considered from a moral as well as

By placing in one category the child, the juvenile and the young adult offender, the supporters of this trend assume an identity which does not exist: that of having more or less the same amount of immaturity. This conclusion is as conventional as any other.

Being the result of a long and complex process, in which bio-psychological aspects are not the only factors to be considered, maturity is not exactly determined by any particular age *limit*, although conventionally it may be related to certain ages. Moreover, some minors are not only far more mature than other minors, but also are more mature than some adults. Living, learning and growing conditions, more than the chronological passing of years, may have a decisive role in the development of maturity, or for that matter, of immaturity. Furthermore, although structurally conceived, maturity is not uniformly developed and sometimes is unevenly distributed, *i.e.*, in some aspects it is better developed than in others. This explains the apparent contradictions in the same person, who may be mature in some respects and rather immature in others. This lack of balance does not necessarily mean that the person is abnormal or mentally unbalanced, but simply that maturity is a changeable and uneven condition for which no uniform standard can be set.

This unevenness of maturity has apparently led the supporters of the trend criticized here to maintain that it is illogical that a person who does not attain his legal maturity until he reaches the age of 21 is, however, considered responsible, from a criminal point of view, as soon as he reaches an age varying from 14 to 18 years, according to national legislations. This kind of reasoning overlooks the following:

(I) As stated, life (and therefore maturity) does not present a uniform pattern. Consequently, life requires a diversity of activities, each of them with a different meaning and purpose, determined in accordance with the prevailing system of values. This variety of activities requires in turn a corresponding variety of capacities and responsibilities, which in their performance do not require the same "amount" of maturity.

(II) Criminal law requires a minimum of knowledge and therefore a minimum of maturity. In

psychological point of view. Furthermore, it would seem that in practice, corporal punishment was not applied, or very seldom applied to minors under 18 years of age. See MONTES, *PRECURSORES DE LA CIENCIA PENAL EN ESPAÑA* (Madrid 1911).

other words, criminal offences represent fundamental wrongs clearly different from other less relevant anti-social wrongs. Unless he is abnormal, the offender does not have to be fully mature to realize that by killing or raping he has committed a fundamental wrong.

(III) Criminal and civil activities and responsibilities are not identical. Each of them represents a different evaluation of human behaviour. To amalgamate them into a unitary concept of behaviour and responsibility would imply that the treatment recommended when a criminal offence is committed should also be applied to the minor who refuses to pay for lodging, clothes or groceries, to enlist in the army or to do his work. If lack of maturity is apparent enough to exculpate murder, rape, bodily injury and other offences, it would be more than enough to attenuate or exculpate any other responsibility resulting from family, labour and patriotic duties. In other words, by explaining everything done under 21 years of age, immaturity seems automatically to provide a justification of everything. Putting aside the mistake of identifying explanation with justification, which are two different things, such explanatory aim would lead to the admission that along with mass production, the highly developed countries are producing immature or uncivilized juveniles in mass.

(IV) Finally, if anything, the present widespread use of mass education and mass communication should have facilitated the development of greater maturity instead of lowering it. Apparently, this has not been the result. Two alternative explanations are possible: either (1) the prevailing family, ethical, moral and educational systems and existing mass media are themselves of such a low standard that, instead of raising the level of human intelligence and sense of solidarity and social responsibility, they are lowering it; or (2) the theory of lack of maturity is utterly wrong. The answer is not easy and would require time and space which we do not have at our disposal. It may be said, however, that in spite of a high standard of living, social security and welfare, and mass education, the ethical and social "quality" of young people has apparently decreased. The only possible explanation is the materialistic content and purpose of highly developed ways of living.

There is no doubt, either, that there are in this general framework legal concepts which are obsolete, too conventional and even arbitrary. In

such cases reform is due, but it is important to remember that psychology and psychiatry are not the only branches of knowledge to be considered in such reform. The reasons are that legal concepts embrace more than psychological and psychiatric elements and that, more often than not, psychological and psychiatric theories are built upon shifting grounds.

Actually, it is only common sense to state that legal as well as psychological definitions or concepts reflect in different degrees national characteristics. Thus, French, German, English and American psychology and psychiatry offer enough national characteristics of their own to invalidate the criticism that legal definitions reflect nothing more than national characteristics. In fact, these definitions should reflect as accurately as possible the beliefs, traditions, mores, habits and way of thinking, all of them having a changing character, of a particular country.

Unfortunately, under the impact of "progressive" trends, we are now witnessing the curious spectacle of a multiplication of a new kind of conventional legal definitions which are nothing more than "legalized" psychological theories, the transplantation of which is of dubious scientific or practical value. In other words, under the impact of some psycho-psychiatric trends, psychology and psychiatry are not only influencing legal definitions which are as conventional as, if not more conventional than, the old ones, but also facilitating the universal acceptance of an equally conventional concept of minor offenders, and for that matter, of offenders in general.

This imitative influence explains better than anything else the widespread acceptance of 18 years as the upper age limit by countries differing in their ethnical, cultural, social, economic and religious characteristics. For example, among the countries that have adopted that age limit are: Norway, France, Colombia, Austria, Mexico, Jordan, Switzerland and Turkey. When the writer asked in these countries why the age of 18 had been chosen, the reason given more often than not was that adoption of the age limit was in accordance with the present recognized trend. In some of these countries, a person of less than 18 years of age is frequently legally considered to be sufficiently mature for marriage and the performance of other social and legal responsibilities; however, if he commits a theft, rape or murder, he is treated as lacking in maturity, or maladjusted. Why are

persons minors until the age of 15 in Iraq and 18 in Jordan? The reason given to us in Jordan was that 18 was the prevailing international trend.

In most cases, these trends do not correspond to national needs and characteristics, and even less to bio-psychological theories. However, upper age limits are transplanted because it is easier to follow the current and look "progressive" than to ascertain to what extent an imported theory is in accordance with national characteristics. Unfortunately, this wide acceptance of imported upper age limits, which is nothing more than a "scientific fashion," is used by the supporters of the trend as "proof" of its validity.

Another consequence of the trend under consideration is the reasoning that because minors live in a world of their own, they should be treated as a group apart and in a different, mostly protective way. This reasoning is subject to the criticisms already expressed in the foregoing remarks. More specifically, it can be said that the statement that children live in a world of their own is redundant. Actually, every person lives in a world that is more or less personal. If, however, the "world of their own" as applied to juveniles is understood to mean the only or primary one to be considered, and that therefore minors should be treated accordingly, the conclusion can hardly be accepted. This juveniles' so-called world of their own is no more than an aspect of a more external and broader world in which everyone lives and in which they are expected to act and move in accordance with certain general fundamental rules and values.

Sociologically, the important thing is not to create different artificial worlds by stressing differences, but to maintain, as much as possible, the unity of the different aspects of our single world. At present, any theory of separate worlds, whatever they embrace, is simply unrealistic. Briefly, the so-called child and adult worlds are the same. Unfortunately, under the influence of some schools of thought which consider that the first five years of the child's life are the decisive ones, and that, in order to avoid frustration and conflict, all the needs of the child should be satisfied, the child's world has come to be regarded as the primary one around which even the adult world should revolve. This psychoanalytical conception is widely accepted in some countries, where it permeates not only the family, but also the educational system, and broadly speaking even the whole social system. It is in these countries that the theory of malad-

justment is widely accepted and professionally cultivated, and where the "democratic," as opposed to the authoritative, family has been advanced as the more progressive. Space and time do not allow us to examine the validity of the "sociological discovery" of the "democratic" family. Suffice it to say that the theories of a "world of their own," maladjustment and democratic family contradict each other. Thus it is difficult to accept the theory that a young person, until the age of 18 or 21, is, as a rule, maladjusted or lacking in complete maturity, and therefore in need of protection, and that he cannot understand such fundamental wrongs as murder, rape, robbery, bodily injury and the like, while maintaining that the very same young person is supposed to participate "democratically" in family discussions and is even entitled to make certain decisions by himself. Furthermore, this maladjusted or immature young person, unable to distinguish between fundamental rights and wrongs, is also entitled to select, under perfunctory supervision, his own curriculum in college. The Labour Party in England recently attempted to have the voting age lowered to eighteen years, while a parallel movement was attempting to raise the upper age limit for exemption from criminal responsibility to eighteen years, on grounds of immaturity and maladjustment.

The psychoanalytical theories pertaining to the important and formative character of the first five years are undoubtedly valid in some respects; these theories, however, become distorted and professionalized when used to explain everything. The first five years, clearly, are not the only ones to be considered. Actually, human character is continually undergoing transformation, for better or worse.

The implementation of the theory of the "world of their own" is at present one of the contributing factors to juvenile and young adult delinquency. It seems that in some countries this "world" is nothing more than "Mom's world," which apparently has not proved conducive to reinforcing family life or to making children more able to control their impulses and desires.

The idea that after living in a world of their own and being treated accordingly, juveniles will all of a sudden become adapted to the adult world is illogical. The artificial separation of these worlds, especially by stressing the importance of the satisfaction of one's own needs and wishes in order to ward off the ever present possibilities of tension,

anxiety and conflict, has probably contributed to the rapid growth of an "asphalt jungle" in some large cities and to increases in delinquency in smaller places.

In rebuttal of the foregoing it may be said that, even if it is correct, it refers only to a small group of minors, the offenders, and that the problem is therefore less serious than it appears. But this reasoning, which is often put forward at national as well as international gatherings, seems to be no more than a delusion. It is true that as far as figures are concerned, the offenders constitute a minority. But social problems should not be measured by figures alone. Minority problems usually raise the most difficult political, financial and sociological issues. There is no doubt that compared with the total population of New York City the number of persons considered as criminal or delinquent constitutes a minority, but it is this minority that, among other things, makes it dangerous in 1960 for a pedestrian to cross Central Park at night, and occasionally even during the day. The "paralyzing" effect of a minority is frequently overlooked. Crime and delinquency often prevent people from doing things which they are entitled to do. Moreover, minorities play decisive roles in modeling certain patterns of life more or less submissively accepted by the majority, and it would border on social irresponsibility to wait until a social problem affects the majority of a particular group before dealing with it, especially when the minority is strong and active enough to disturb community life. While juveniles should not be treated as adults—not even all adults can be treated as such—they should be taught that eventually they will become adults and will, as a general rule, be treated accordingly. Therefore, juvenile life should not be considered a totally permissive world or a "wild" period in which every need, wish and fancy should be satisfied, but rather as a preparatory stage to adulthood. Accordingly, restrictions should be imposed, and moral and social values should be taught and enforced. The question arises, however, whether in certain countries the preparatory task entrusted to adults is not at present more difficult than before. Apparently, it is becoming more difficult, partly because parents are now subjected to a variety of greater pressures, and partly because mass media communication is a business and consequently aims at the satisfaction of low emotional needs and

wishes, and advertising. More and more, people are treated simply as actual or potential customers.

A growing number of people pay lip service to a moral and social system of values, but prefer to conduct their lives in what they call a realistic or practical way. Especially in certain highly developed countries, a money-minded attitude prevails, glorifying financial success above all else. A corollary of this attitude is the acceptance of certain forms of corruption, deceit, fixing and rigging as a part of everyday life. The result is that juveniles are made fully aware of this contradictory system and of the fact that, by and large, money success gets greater recognition than moral or intellectual success. Therefore, the task of preparing children and juveniles in accordance with a traditional and somewhat remote system of values becomes increasingly difficult. One may wonder to what extent this widespread moral and ethical failure is not also accurately reflected in the increase of juvenile delinquency, especially in economically affluent societies, in some of which, symptomatically, the frequent issuing of, or demand for, official "Ethic Codes" for different kinds of professionals and civil servants seems to stress this moral and ethical failure.

Another sociologically corroding aspect of the theory of lack of maturity is that which maintains that in dealing with juveniles and young offenders, what matters in the selection of measures to be applied to them is their personality, whereas the *actus reus* and *mens rea* of the particular offender is, in principle, of no importance.³⁰ To the writer it would be difficult to find anything expressing greater disregard for the governing system of social values in any society. Moreover, this view indicates a basic misunderstanding of the concept of personality.

Personality is not something isolated, which develops in a vacuum or test-tube. It is closely related to a particular environment which is reflected in the behaviour of the person concerned. As a structure, it would seem that personality is the result of two variables, one having a bio-psychological character and the other as external character constituted by the environment. In different degrees, and according to a variety of circumstances, both variables shape the personality, but the personality in its turn and in different

³⁰ This theory has a large number of proponents. See, e.g., Frey, *Plans to Reform the Swiss Juvenile Penal Code*, 7 THE BRITISH JOURNAL OF DELINQUENCY 231-41 (1957).

ways acts on these two variables. Because of this relationship, personality cannot be considered as an entity by itself or as something independent from the acts of the person whose personality is under consideration. Therefore, in order to understand the personality, the *actus reus* as well as the *mens rea* are important. Furthermore, what has to be treated is not a personality but a person, a distinction at present often overlooked; the aim of treatment is not to "adjust" a personality, but to enable a person to live in society without further conflicts with the law. In other words, personality is an empty concept unless it is related to that of person, and the latter in turn to the concept of society in which the person lives. Consequently, in the selection of measures to be applied, including the correct psychological point of view, the *actus reus* and the *mens rea* play a role which cannot be disregarded.

It would seem that by stressing more and more a purely psychological concept of personality, modern psychological thinking is introducing into the field of criminology one of the most conventional terms.

V. FINAL REMARKS

The purpose of this paper is only to point out the shortcomings of the theories of maladjustment and maturity, which with variations constitute the prevailing approaches to the problem of juvenile delinquency. In the writer's opinion, neither delinquency nor adult crime will be curtailed as long as these approaches are not rectified. Their correction is not an easy task, because among other reasons, these approaches are the *ratio essendi* of a variety of programmes and policies, the importance of which will be considerably reduced as soon as the theories of maladjustment and maturity are no longer "cultivated" as they are today.

As final remarks, the writer ventures to submit the following:

(a) Crime and delinquency are neither pathological nor deviated forms of social phenomena. Usually they reflect very accurately the prevailing patterns of life in a particular society. Therefore, crime and delinquency cannot be eradicated, but only reduced to tolerable proportions. These proportions, however, can hardly be attained by the implementation of peripheral policies which do not touch these prevailing patterns of life.³¹

(b) Materialistic prevailing patterns of life in turn lead to materialistic scientific theories and programmes which because of this correspondence, and not because of their effectiveness, are readily accepted and maintained. Usually, the utmost that materialistic societies, theories and programmes may achieve is to control crime and delinquency, but to control them does not necessarily mean either to prevent or reduce them. Control and prevention are two different things.

(c) There are no general theories of crime and delinquency. Therefore, as theories, those of maladjustment and maturity here examined are sociologically not only conventional but also ineffectual. They reflect a trend in which the problems of freedom, person, individual rights, sense of social responsibility and authentic sociological study, methodology and research have been supplanted by those of conformity, personality, excessive welfare interventionism, permissiveness, lack of any responsibility, transplanted natural methodology and *ad hoc* suitable research projects. This prevailing trend, which in certain highly developed countries already seems to permeate in different degrees other aspects of life, is producing the kind of juvenile and adult who, by being unable to do anything for himself, is always in need of counseling, help, assistance and protection. Therefore, as stated, human beings are considered more and more as customers, rather than as persons. In order to disguise this transmutation, the artificial stressing of the personality has been, and is, carefully maintained. Briefly, by "getting" more attention and care for an artificially "enlarged" personality, people are losing more and more as persons. One of the corollaries of this trend has been the assertion that juvenile delinquency does not need to be defined. This and the points of view already examined have led to an inflation of the problem of juvenile delinquency, which inflation has also facilitated a proliferation of theories on the causes of juvenile delinquency and its prediction. Actually, a restricted definition of delinquency would not only help in reducing the

economic factors and delinquency, the United States Senate Report cited *supra*, note 19 at 138 states the following: "Deemphasis of materialism would be a great accomplishment in the prevention of illegal behavior not only among adult criminal offenders but in the effect which male materialism has upon child rearing. Yet this change seems a largely improbable development in modern society. American programs for economic improvement promise no diminution of materialism in the spirit of the culture."

³¹ In the examination of the relationship between

inflation but also protect juveniles as well as society far better than some of the prevailing theories on juvenile delinquency and the programmes and policies resulting therefrom.³²

(d) The new approach to crime and delinquency seems to require, among other things, a serious revision of the term *cause*, and greater attention to the study of individual as well as collective attitudes. As already mentioned, crime and delinquency are not expressions of maladjustment but manifestations of particular aspects of social systems and patterns. In different ways, some of these patterns find shape in crime and delinquency, and others in excessively permissive or tolerant attitudes, which in turn facilitate crime and delinquency. For an effective preventive policy, the study of these varied attitudes seems to be more important than the building up of general criminological theories.

(e) The fact that crime and delinquency are social problems, and not medico-psychological ones, in no way should be construed as excluding the medico-psychological branches of knowledge from the field of criminology. On the contrary, they should be incorporated, but not to the extent of transforming crime and delinquency into psycho-psychiatric phenomena. Perhaps it would be wise if, before an attempt is made to "solve" the sociological problems of crime and delinquency, some fundamental psychological and psychiatric

problems could be solved first. In any case, psychologists and psychiatrists should remember that to explain from a causal point of view a particular form of social behaviour does not necessarily mean that this behaviour is sociologically justified. Justifications of social behaviour are provided by systems of values, and not by psycho-psychiatric theories which, among other things, quite often contradict each other.

(f) As regards treatment, the approach here suggested means that offenders should be treated individually, not because they are maladjusted or below a certain age, but because as individuals each of them constitutes a different case. In the writer's opinion, treatment implies a balanced consideration of legal, sociological and medico-psychological elements, as well as the requirements of society and the person and personality of the offender. Sociologically, juveniles should not be considered as something apart, but as part of society, accountable for a certain amount of social responsibility. Therefore, treatment is not a sociologically permissive therapeutic, but a system of measures based on the requirements of both the individual and society. Adequate forms of punishment should be included among these measures when necessary. Punishment, as used here, means certain measures implying a restriction or temporary deprivation of freedom, and not corporal punishment or any other purely punitive measure.³³

³² At the 1955 United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the question of the definition was discussed and considered by many as a fundamental one. This aim was apparently misunderstood by some, among others, by Glueck, who considered the discussion as futile. See *THE PROBLEM OF DELINQUENCY* 4 (Glueck ed. 1959).

³³ A more detailed outline of what treatment means has been given by the writer in the sources mentioned *supra*, note 26. The writer's point of view favors the suppression of any upper-age limit between minors and adult offenders, and the application of punishment, not as retribution or vengeance, but as treatment.