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CULTURE CONFLICT AND POLICE

RECORDED CRIME IN NIGERIA

by

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Thesis submitted to the School of Graduate
Studies in partial fulfilment of the require-
ments for the degree of Master of Arts in
Criminology.

University of Ottawa
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Francis O. Amanfo, Ottawa, Canada, 1981.

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3. Re Alayo (1946) 18 N.L.R. 88.
4. R. vs. Ilorin (1953) 20 N.L.R. 144.
5. Tapa vs. Kuka (1945) 18 N.L.R. 5.

LIST OF ABBREVIATIONS

1. N.L.R.: Nigeria Law Reports
2. N.R.N.L.R.: Northern Region of Nigeria Law Reports
3. N.M.L.R.: Nigeria Monthly Law Reports
4. W.A.C.A.: West African Court of Appeal
5. W/W.N.: Western State of Nigeria
6. W.L.R.: Law Reports - Weekly Law Reports
7. W.R.N.L.R.: Western Region Nigeria Law Reports

LIST OF LEGISLATION

1. COLONY AND PROTECTORATE OF NIGERIA
Nigerian Supreme Court Ordinance
No. 23, 1943.
Slavery Abolition Ordinance, 1916.
2. GOLD COAST COLONY
Emancipation Ordinance, 1874.
Slave-dealing Ordinance, 1874.
3. PROTECTORATE OF NORTHERN NIGERIA (N)
Slavery-Proclamation, 1901.
Ordeal, Witchcraft and Juju
Proclamation, 1908.
4. PROTECTORATE OF SOUTHERN NIGERIA (S)
Slave-dealing Proclamation, 1901.
Ordeal, Witchcraft and Juju
Proclamation, 1903.
Native Courts Proclamation, 1901, s. 27.

SUMMARY

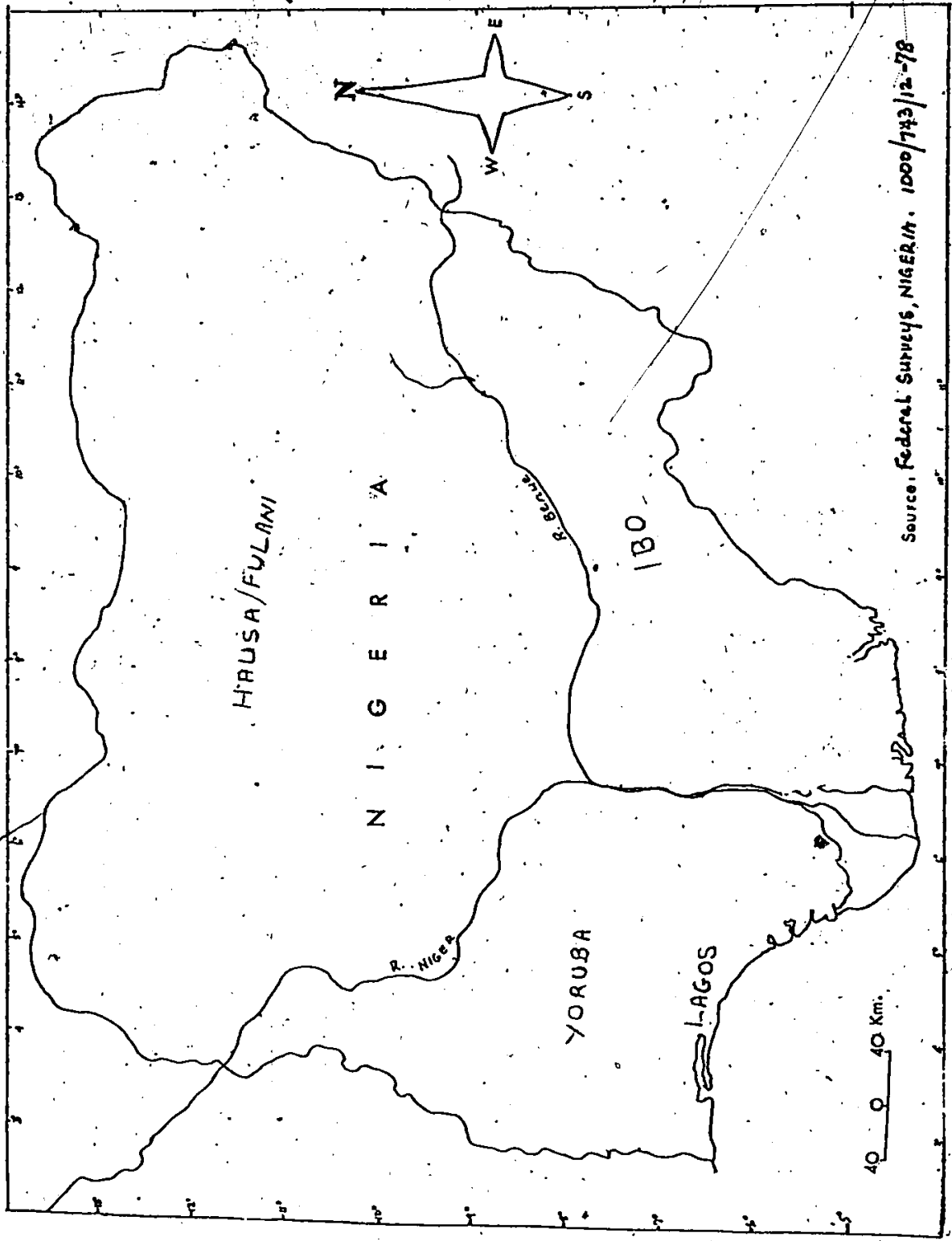
In recent years, the concept of crime has received many new explanations. The concept of culture conflict provides one of the contemporary views of crime causation and has been used by many researchers as a meaningful approach to the understanding of crime. Many studies have been conducted to specifically test the theory. Some have provided supportive evidence, others have not.

This study is an attempt to test the theory by using it as a framework for a study of crime in Nigeria. The approach adopted in the study is to undertake a historico-social analysis of the development of Nigeria as a country and of its legal system to ascertain the existence of conditions that would promote the criminogenic culture conflict. With the use of officially published data, the crime situation has been analysed. These data have been used because crime has been considered not merely as an act but an act that is interpreted as a crime and an act that sets the official law enforcement machinery into motion.

Finally, an attempt has been made to explain the patterns and trends of crime in Nigeria utilizing the hypotheses that have been derived from the theory of culture conflict.

The historico-social development of Nigeria as a country and its legal system reveal the existence of the conditions which have been described as culture conflict and which have been associated with crime. There has been a proliferation of normative codes placing the Nigerian in a situation in which he believes he knows what is expected of him but which others do not believe is the way he should behave. The existence of these conditions would normally be expected to be associated with crime. The analysis of the official statistics shows, contrary to our expectations, that the incidence of crime has not increased. In addition to this, the patterns and trends also reveal that crime is not greatest among those people and in these areas in which culture conflict was greatest. The data does not support the theory of culture conflict. One possible explanation for the lack of support is that the external conditions of culture conflict does not produce the internal mental conflict that links the conflict conditions with the criminality that Sellin has hypothesized. The absence of this internal conflict can perhaps be attributed to the influence of kinship bonds. In the alternative, it could be hypothesized that the mental condition does exist and it does give rise to crime but the kinsmen do not recognize it as crime and involve the official law enforcement process because the law enforcement machinery is viewed as a foreign institution.

MAP SHOWING LAGOS (COLONY) AND THREE MAIN ETHNIC GROUPS IN NIGERIA



Source: Federal Surveys, NIGERIA. 1000/743/12-78

CHAPTER I

CULTURE CONFLICT: AN EXPLANATION OF CRIME

In man's attempt to unravel the causes of crime, a number of aspects have been explored and an equal number of theoretical explanations have been proffered. The earliest saw the criminal as the agent of some evil spirit. Any person who failed to follow the accustomed ways of the group was assumed to be possessed by demons--possessed and driven by the devil. When Christianity dominated the life of the middle ages, this demonic theory of crime tended to merge with the Christian concept of sin. The offender was regarded as an antagonist to both the group and the gods. Criminal action was caused by evil spirits, who took possession of a man's soul and forced him to perform their evil will.

Crime, or criminal behaviour, in this view is then simply evidence of that which everyone knew and accepted as possible and probable, namely, that the individual had become possessed and driven by the devil.¹

Contemporary society is still influenced by the theory, so much so that, as late as the nineteenth century, a formal indictment in England accused the criminal of "being prompted and instigated by the devil." In the United States, as late as 1862, a State Supreme Court declared that "to know the right and still the wrong pursue, proceeds from a perverse will brought about by the seduction of the evil one."² Pope Paul VI,

in an address to 6 000 people at his weekly public audience in Rome on November 29, 1972, said that the devil is dominating "communities and entire societies"³ through sex, narcotics, and doctrinal errors. These ideas of devil domination and demon possession are generally believed to be out of date and nonsensical by most criminologists, but then some do admit that the idea still influences some minds as they think of some bizarre criminals.

While demonological explanations make use of the principle of 'other world' power to account for especially criminal acts, "naturalistic explanations have recourse only to ideas and interpretations of objects and events, and their interrelation with the existing world of known reality"⁴ naturalistic explanations arose when people realized that it was possible to explain phenomena in ways other than devil instigated actions. At this time, naturalistic explanations were sought as an explanation for criminality. The move toward naturalistic explanations opened the way to three distinct thought systems. First, there was the thought system based on the belief that intelligence and rationality were the essential characteristics of man and that man is capable of self-direction. "He is no longer a creature possessed by the devils or driven by spirits--he is "master of his fate, captain of his soul,"--a creature capable of understanding himself and acting to promote his own best

interest."⁵ This view assumes that man has 'free-will'--to act randomly but also capable of choosing between good and evil alternatives. The devil does not direct him, he possesses intelligence and is capable of rationally determining his acts or behaviour. The explanation included the notion that man was essentially hedonistic, desiring a maximum of pleasure and the avoidance of pain. A man committed a crime because the pleasure anticipated from the criminal act was greater than the subsequent pain that might be expected.

The second thought system adheres to the view that man is fundamentally a biological organism, subject to the limitations and controls of 'laws of biology'--his actions being biologically determined. This view admits that man is self-determining and intelligent but with his self determination and intelligence biologically determined for him--his criminal behaviour being biologically and hereditarily determined. Inherent in this, is the supposition that crime is but one of the many possible outcomes of a defective physiological structure.

Amending somewhat the biological determination is the third notion that what is genetically transmitted is a general tendency to maladjustment and that, given certain environmental pressures, this disposition leads to criminal behaviour.

In this direction, Enrico Ferri (1906) noted that:

...it is not the criminal who wills, in order to be a criminal. It is rather necessary that the individual should find himself permanently or transitorily in such personal, physical, and moral conditions, and live in such an environment. Which become for him a chain of cause and effect, externally and internally, that disposes him towards crime...⁶

This is an adherence to the view that man's behaviour, despite the biological influence or determinism that understanding him as a human being is related to, is a reflection of the characteristics of the socio-cultural world in which he functions. Students of human behaviour adopting this perspective have assumed that the human being is a biological entity, born into the world without any knowledge, but born ready to acquire, assimilate and adapt the knowledge that is made available to him. "Among the types of knowledge that he must acquire, assimilate and adapt is the knowledge of the art of living, an art that teaches him how, when and what he may and may not do."⁷ This view assumes that man, in his cultural commitment, behaves in the fashion that he has been socialized to behave--man's behaviour being culturally determined.

From this blend of biology and culture emerges the Freudian psychoanalytic notion which tells us that the process of socialization and internalization of a cultural milieu results in the formation of the "super ego"--a force of self-criticism that is unconscious in its operation. As a biological entity, the

individual has, in addition, drives, urges and impulses that are stored in an immense reservoir the "id," also unconscious in its operation. The "ego" is the conscious element of the personality of which the individual is aware and which he tries to develop, mold and control. In the process of development, molding and controlling of the ego, certain socially unacceptable portions are repressed into the unconscious. Behaviour of the individual becomes either a direct expression of the "ego" or a substitute or a symbolic expression of the repressed portions. Crime or behaviour that is counter to the requirements of a group or particular culture, is thus symbolic behaviour, symbolic of the repressed elements and indicative of an unresolved conflict between the basic personality elements --the cultural and biological components.⁸

Until very recent times, the criminal law has been considered a rule of conduct agreed on by the entire society, and which members of society are enjoined to respect. Those who fail to do so are looked upon as criminals, though only after the determination of their guilt is dependent on a mental element of intent. Yet crime is generally considered a specific act: the general notion or view of crime being essentially behaviour "in violation of the criminal law."⁹ This view of crime posits the criminality of an act on its proscription by the State and does not include other acts that are harmful to

society, not accepted by it and even forbidden in a sort of informal way. If the focus is shifted from the proscription to the nature of the act--the harm it does or the social values that it violates, then a number of acts not proscribed get included in the concept and the study would be not of crime but of non-conformist behaviour. Crime would be one form of non-conformist behaviour--behaviour that violates legal norms, social values.

Durkheim (1949) has claimed that:

...the only common characteristic of crimes is that they consist...in acts universally disapproved of by members of each society... Crime shocks sentiments which, for a given social system are found in all healthy consciences.¹⁰

This view of the law concedes the existence of conflict in society but claims a reconciliation of the conflict by consensus. Society, it is assumed, is a collection of groups held together by a shifting but dynamic balance of opposing group interests. The law, however, considers it a homogeneous group with a well-defined code of behaviour which its members are required to obey. Criminal behaviour, behaviour that is proscribed, thus becomes an expression of the conflict between the dictates of the groups that make up the society and to which the individuals belong and the dictates of the totality of the society to which the groups belong. The law fails to consider the dictates of all the individual groups as acceptable

alternatives and in proscribing certain forms of behaviour tend to outlaw behaviour that is exclusively indulged in by a particular group of people and to safeguard the interests and protect the integrity of another group.


The difference in the values of the conflicting groups and the protections afforded the values of one group makes the culture of some groups a criminal culture. A classic example of this pattern may be seen in the "criminal" tribes that were of national concern to the government of India in the twenties and thirties. These tribes socialized their children into criminal activities. At early ages, they were role-trained to commit acts of burglary and to operate confidence games, and the girls were encouraged to be prostitutes. The tradition of crime as a means of earning a living was passed on from generation to generation. There was no moral stigma associated with a life of crime, and children growing up in this sub-culture had no guilt or conflict about committing crimes. This was what they were supposed to do. The deviants in the criminal tribes of India, from their group perspective, were paradoxically the few youths who did not adhere to the values and behaviour of the criminal ethos.

Young people growing up in urban slums in western societies are often confronted with a similar type of criminal socialization though the criminal tendency is not as pervasive or as

strong as in the Indian criminal tribes. The criminal behaviour, Shaw and Mackay (1931) contend, is a shared deviance rampant in particular areas which they termed delinquent areas. It is a conformity to the culture that exists in areas of marked "social disorganization"--resulting from

...the gradual invasion of these areas by industry and commerce, the continuous movement of the older residents out of the area and the influx of newer groups, the confusion of many divergent cultural standards, the economic insecurity of the families, all combine to render difficult the development of a stable and efficient neighbourhood organization for the education and control of the child and the suppression of lawlessness.¹¹

"Criminal careers" are produced in these areas by the process of emulation. When one's peers hold delinquent norms, when the neighbourhood hero is a "successful" criminal or racketeer, youths may seek to emulate these patterns. A criminal career for many youths growing up in this social context is therefore more a matter of conformity than of deviance.¹² Yet, those indulging in these forms of behaviour are found guilty in the courts notwithstanding the fact that the behaviour was approved in the neighbourhood in which they lived. Thus, behaviour approved by the neighbourhood is considered delinquent and criminal by the norms and laws of the larger society. The conflictual nature of this criminal behaviour becomes even more evident when it is realized that in these criminal neighbourhoods



the conditions or socially sanctioned avenues do not permit the achievement of socially structured goals--a condition which Merton (1957) designated "anomie"¹³ and which Cohen (1955) claimed is responsible for the genesis of the "delinquent subculture"¹⁴--a system of values and a code of behaviour that is not only at variance with, but also in opposition to, the dominant one found in the larger society.

These theories assume that the individual's behaviour is as a result, or in consequence of, the internalization by the individual of values cherished by the group to which he belongs and with which he identifies himself and the rejection of values approved by the larger society. These theories have focussed on the behaviour of the individual to almost the exclusion of the effect that spectator interpretation of that behaviour has on its criminality. The input made by the behaviour and actions of law enforcement and justice administration has been ignored. There is sufficient evidence to indicate that crimes committed by better positioned members of the society are really not considered "crimes" and the delinquent acts of their juveniles are looked upon as "normal" manifestations of adolescence. It is only the crimes of the less privileged members of society and the delinquent acts of their children that are abnormal. In consequence, the causes of criminality are to be found in the "unstable" structure

and organization of their community, the deteriorated ecology of their neighbourhood, the transmission of "deviant" values from one generation to the next, or in their intra-family situations and interactions.

The obvious "inadequacy" of these crime theories, the works of sociologists like Merton (1957)¹⁵ and Tumin (1967)¹⁶ and those of social deviance theoreticians like interactionist Goffman (1963),¹⁷ Becker (1963)¹⁸ and Schur (1965),¹⁸ and particularly the ongoing politicization of many social science disciplines, have led to what is currently and variously known as the "new," "radical," or critical criminology.²⁰ This new orientation is valuable because of its total conceptualization of the crime problem, its reality in laying bare the pretenses and falsehood of society and projecting the facts of our system of unequal society. With this approach, questions of crime and crime control are as political and economic as they are sociological.

When the social, economic, cultural and political totality of a country is taken into consideration, it will be found to be riddled with conditions that lend support to almost every theory of crime causation, suggesting that there is a more basic common factor. This factor appears to be the inability of the individual to behave or conform in a way that he is expected and his concomitant indulgence in a behaviour that

is outlawed--the core concept of culture conflict hypothesis. Thorsten Sellin (1938)²¹ defines culture conflict as the mental state produced in an individual as a result of his exposure to conflicting cultural codes. He postulates that there are social groups on the surface of the earth which possess complexes of conduct norms which, due to differences in the mode of life and the social values evolved by these groups, appear to set them from other groups in many or most respects. Removed from their milieu and placed in an entirely different setting, the people will behave in ways in which they were taught to behave but in ways in which they are not expected to behave in their new setting. Examples of such situations exist, Sellin (1938) claims, when the orient and occident meet, or when the Corsican mountaineer is transplanted to the lower East side of New York, or when a rural dweller moves to the city.

Conflicts of culture are inevitable when members of different cultural or subcultural groups come in contact with each other. Such contact could result from migration, but as Sellin points out, it could also result when the two groups live in contiguous territories; contradicting norms become operative in the border areas. A third way in which the conflict could arise is when the law of one cultural group is extended to cover the territory of another. Many African and Asian

countries who were colonized by the British or other colonial powers are victims of this type of conflict.

The conflict that arises, thus Jayewardene (1960) has categorized as the conflict of antithetical norms.²² Here the individual has been reared to behave in a particular fashion which society, either formally or informally, demands that he behaves in a different way. In addition to this type of culture conflict, Jayewardene postulates four other forms.²³ There is first the culture conflict resulting from non-applicability of norms to a particular situation--because the interacting individuals are members of out groups permitting the situation to be viewed in the same way as the confrontation with an enemy in time of war. Second, culture conflict could also occur in countries where social stratification is rigid and when members of one group attempt to behave as members of another to which they have not been granted membership.²⁴ resulting in the usurpation, so to speak, of powers socially reserved for particular groups--such as the governmental powers of inflicting the death penalty and of imposing and collecting taxes. Third, there is the culture conflict that stems from the overshadowing of other values by the threat to the integrity of one value--a situation that is even legally recognized in the permission granted an individual to defend himself, his family and his property. Finally, there

is the culture conflict that stems from the individual's realization that society does not live up to the expectations that have been inculcated into him--when in Merton's terms the socially sanctioned avenues are inadequate for the satisfaction of socially structured goals.²⁵ In these cases, the norms are not antithetical but there is a misinterpretation of the applicable norms.

The work of Ribordy (1971) with the Italians of Montreal,²⁶ as well as that of Jayewardene (1972) with the Eskimos and the Indians,²⁷ reveal the existence of an entirely different mechanism through which culture conflict could operate. Instead of producing a mental state in the offender forcing him to behave in a socially disapproved manner, it could produce a mental state in law enforcement officers forcing them to interpret the normal behaviour of particular groups of people as criminal.

The culture conflict hypothesis holds that criminality is an expression of a disjuncture between the way an individual believes he should behave and the way society, through its body politic, insists he should, with the possibility of the disjuncture stemming from a misinterpretation of the situation on the part of the actor--from a misinterpretation of the socially expected reaction again on his part, and from a misinterpretation of the reaction on the part of a spectator. The misinterpretation is predicated by social, economic and

cultural conditions which expose individuals to a multitude of possibilities without a clear and firm indication as to what is desirable in terms of personal satisfaction, of group satisfaction and of social satisfaction.

This study seeks to explore the possibility of explaining crime in Nigeria in these terms.

FOOTNOTES

¹Vold, G.B. (1955) Theoretical Criminology. (New York: Oxford University Press), p.6.

²Gillette, J.M. and Reinhardt, J.M. (1933) Current Social Problems. (New York: American Book Company), pp.652-653.

³Pope Blames Devil for Sex and Drug Evils Los Angeles Times (AP), Dec. 1, 1972.

⁴Vold, G.B. (1958) *op cit.* p. 7.

⁵*Ibid.*, p.9.

⁶Ferri, E. (1906) The Positive School of Criminology. (Chicago: Kerr), p.23.

⁷Jayewardene, C.H.S. (1960) Criminal Homicide. (University of Pennsylvania), p.2.

⁸Jayewardene, C.H.S. (1960), *op cit.*, p.4.

⁹Sutherland, E.H., and Cressy, D.R. (1955) Principles of Criminology. (Philadelphia: I.P. Lippin Cott and Co.), p.4.

¹⁰Durkheim, E. (1949) The Division of Labour in Society. Trans. John, A. Spaulding and George Simpson (Glencoe: Free Press), p.73.

¹¹Shaw, C.R., and Mackay, H.D. (1931) Social Factors in Juvenile Delinquency. Report of the National Commission on Law Observance and Law Enforcement on the Causes of Crime, Vol.2, no.13, (Washington D.C.: U.S. Gov't Printing Office), p.387.

¹²Haskel, M.R., Yablonsky, L. (1974) Criminology: Crime and Criminality. (Chicago: Rand McNally College Publishing Co.), p.265. For an excellent case-history description of the career criminal, see Clifford Shaw, (1938) Brothers in Crime (Chicago: University of Chicago Press.)

¹³Merton, R.K. (1957) Social Structure and Social Theory (Glencoe: The Free Press), pp.131-194.

¹⁴Cohen, A.K. (1955) Delinquent Boys (Glencoe: The Free Press) p.19.

¹⁵Merton (1957) *op cit.*, p.134.

¹⁶Tumin, M.M. (1967) Social Stratification - The Forms and Functions of Inequality (Englewood Cliffs: Prentice-Hall Inc.).

¹⁷Goffman, E. (1963) Stigma (Englewood Cliffs: Prentice-Hall).

¹⁸Becker, H.S. (1963) Outsiders: Studies in the Sociology of Deviance (New York: The Free Press).

¹⁹Schur, E. (1965) Crimes Without Victims (New Jersey: Prentice-Hall).

²⁰For this orientation, see Quinney, R. (1974) Crime Control in Capitalist Society: A Critical Philosophy of Legal Order (Boston: Little and Brown Co.).

²¹Sellin, T. (1938) Culture conflict and Crime (New York: Social Science Research Council):

²²Jayewardene, C.H.S. (1960) *op cit.*, p.18.

²³*Ibid.*

²⁴Block, H., Niederhoffer, A. (1958) The Gang (New York: Philosophical Library).

²⁵Merton, R.K. (1957) *op cit.*

²⁶Ribordy, F. (1971) Culture Conflict and Crime Among Italian Immigrants. In Robert A. Silverman and James J. Teevan Jr. (1975) Crime in Canadian Society (Toronto: Butterworth and Co. (Canada) Ltd.), pp.165-179.

²⁷Jayewardene, C.H.S. (1972) Crime and Society in Churchill (Ottawa: University of Ottawa).

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CHAPTER II

M E T H O D O L O G Y

Since Thorsten Sellin (1938) conceptualized that crime was essentially an expression of culture conflict,¹ a number of studies have been conducted to test the hypothesis. The studies can be divided into two broad categories--one group consists of identifying social conditions--which presumably promote culture conflict and examining the incidence of crime under these conditions. Studies in this category tend to concentrate on or deal with the criminality of migrant populations. The second category comprises those studies which either assume or demonstrate the existence of conflict and attempt to measure its extent. These studies seek to relate this measure of conflict to criminality, with the problem conceptualized either in individual or in collective terms.

One of the earliest studies falling into this latter category is the one conducted by Marshall B. Clinard (1942), in which he hypothesized that the criminality of the rural youth was related to the extent that they were urban oriented,² using the concept of urbanism developed by Wirth (1940)³ as a mode of life resulting from the size and the density, the heterogeneity, mobility and the impersonality of the population conglomerate--he developed a questionnaire and distributed it to 200 property offenders to ascertain the degree of mobility,

impersonal relations, differential association, non-participation in community activities, involvement in organized criminal culture and perception of self as a criminal social type. The urban orientation that promoted rural criminality constituted in Clinard's conceptualization, a greater degree of mobility not extending to residential change, less integration, and infrequent participation in community organizations and groups. He has postulated that the rural offenders would commit their crimes outside the area of residence, that they would not necessarily have contact with criminal norms, and that they would not perceive themselves as being criminals. The study was replicated on two occasions. First, by Eastman (1954) some years later in the same setting⁴ and the second by Clinard (1960) himself in Sweden.⁵ The two replications used more or less the same techniques and resulted in more or less the same findings.

The idea of non-integration into the society in which individuals belong has been explored as a possible criminogenic factor. Many studies have explored this especially with regards to negroes in the United States of America. Arnold Green (1947)⁶ utilized this notion in his "re-examination of the marginal man concept."⁷ In the literature review, the basic facet of the 'marginal man' is seen as stemming from cultural differences--a culture conflict felt and experienced in the

personality of the person. The "culture-conflict" serves as the basis for the supposed personality conflict. As was noted in the case of the second generation Jews, the individual is not marginal until he experiences the group conflict as a personal problem and this conflict is experienced only to the extent that the two cultures conflict.⁸ As the conflict was an internal one, the questionnaire method proves itself a useful technique in obtaining the relevant data.

The concept of cultural integration was explored by Jayewardene (1960)⁹ in his study of criminal homicide, in a test of culture conflict hypothesis. His study, however, did not use the questionnaire method. Rather than approach the problem from the point of view of criminality increasing with cultural disintegration and culture conflict, he argued that the more integrated a society was, the less will be the cultural conflict and, consequently, the less will be the criminality. Viewing cultural integration as a function of interpersonal interaction, he attempted to measure the extent of cultural integration in a particular area using the concept of an ordered pair in which one element is the size of the majority and the other element is the density or population. Integration is greater, he contends, in those areas in which the interaction is deep and between like persons. The density of the population indicating the numbers available for interaction apparently measures the frequency and consequently the depth of interaction.

The size of the majority group measures the extent which the interaction will be between similar individuals. Using two points in time, Jayewardene determines the change in the cultural integrity of the society and correlates that change to the change in homicide rate; to test his hypothesis that decrease in cultural homogeneity or an increase in cultural heterogeneity results in criminality through the operation of culture conflict.

A second test of the culture conflict hypothesis conducted by Jayewardene, his prime consideration comprised the construction of conflict index and the correlation of this index with the incidence of criminal homicide. This test was based on the argument that criminality was essentially a conflict between the manner the individual was taught to behave and the manner the political dominant group required him to behave. Jayewardene did not conceive the conflict as involving a permanent polarization but as involving a situational interpretation of relevant values. Arguing that criminal homicide was related to the value of human life, Jayewardene claims that what is pertinent is the normative power of this value, the power of the value not only to dictate norms of behaviour designed to preserve life but also to induce life preserving behaviour. The normative power of this value in the social value system which gets involved in the socialization of the

individual, Jayewardene uses the infant mortality rate to measure. His use of this measure was based on the argument that the infant mortality rate reflected the effort adults in society adopt towards the preservation of life especially as the life of an infant was dependent on the activities of the adult and independent of the activities of the infant. He measures the normative power in the legal value system which determines the manner in which an adult is expected to behave in society through the per capita expenditure on health arguing that that was an indicator of the efforts exerted by the politically dominant group to preserve human life. Comparing these two, he developed an index of conflict and correlated it to the incidence of criminal homicide.¹⁰

Singh (1973) attempted a replication of Jayewardene's study using data from Canada. However, he found that the empirical validation of measure of the normative power of the value in the two value systems, as done by Jayewardene, was not possible for Canada. Consequently a strict replication was not possible. Instead he attempted to test the culture conflict hypothesis with modifications of the Jayewardene model in two substudies. The first substudy proceeded on the basis that the greater the social concern for the welfare of the people, the lower was the incidence of the behaviour that deviated from the value that this concern reflected. Assuming that the government per capita expenditure for welfare and

health was an indication of the societal concern for human life, he correlated the annual expenditure from 1961 to 1969 with the incidence of annual criminal homicide rate. In the second substudy, he tested the relationship between cultural integration and the incidence of criminal homicide. In this substudy, Singh followed the same procedure that Jayewardene followed, to obtain an index of cultural integration for the different provinces in Canada. However, Singh could not utilize the same technique Jayewardene used to determine the changes in criminal homicide: Consequently, he correlated the index of integration with changes in criminal homicide after rank ordering.¹¹

Yet another study to test the cultural conflict hypothesis was conducted by Ribordy (1971) studying the criminality of Italians in Montreal. First, he analysed criminal statistics collected by the Montreal police, to determine whether the criminal behaviour related to cultural norms which were incongruent in the Montreal context, correlating the intensity of the deviance with the distance of the individual from his own group of people living within the ghetto. Then, he attempted to examine the changes in type and volume of criminality as it relates to cultural mutation. He interviewed a sample of the arrested Italians, and conducted in-depth interviews with some incarcerated Italian criminals to discover

whether the criminal careers of these individuals in any way paralleled their cultural metamorphosis.¹²

One of the earliest studies dealing with the concept of culture conflict stemming from migration is that of Pauline Young (1932)--the pilgrims of Russian-Town. She utilized several approaches--participant observation or personal observation, interviews, eye witness accounts, census information, police and court data, and data from psychologists, psychometrists, psychiatrists and physicians to identify social conditions which have affected the Molokan lifestyle in the United States. Using this information, she was able to identify different types of Molokans according to the relative influence of the home and lost cultures on them. In the case of the older Molokans, they struggled to live a life of true sacred sectarian Molokanism, but economic modes and necessities forced their contact with the outer world and encouraged interaction. The younger generations, on the other hand, had little difficulty opting for the American urban secular life style. They easily reached out for pleasures, dance, and gaiety which characterized the American urban life. Young used changes in language, mode of abode, dressing, type of food and religion to show changes and degrees of integration and assimilation among the Molokans. She found that while the older generation was less integrated and assimilated, the younger generation was

more integrated and assimilated into the American social milieu. While mutual attachment, based on affection, still hold them together in a relationship of intimate solidarity, the twenty-five years of experience in the "melting pot" had produced sufficient cultural differentiation to distinguish three types of Molokans:

- 1) The older generation--Russian-born and Russian-speaking--they maintained strong sectarian life with attitudes that reflect traditional molokanism in its pristine form.
- 2) The group of Molokans whose life contains a mixture of Russian and American elements. They were born in Russia but were too young to identify and participate in Russian-Molokan milieu.
- 3) The American-born and American-bred Molokans. This generation was torn between the Molokan culture in their homes and the American culture outside their homes or Molokan group. This group, Young designated "cultural-hybrids." She compared the criminal pattern of these groups and provides evidence for the influence of culture conflict and crime. Her study, however, was not specifically designed to test the hypothesis.¹³

Shoham (1962) conducted a similar study in Israel to specifically test the culture conflict hypothesis of criminality of immigrants. Using the term "new" immigrant to denote post-1948 immigrants to Israel, and native-born immigrants to denote persons who were born in Israel, (including the pre-1948 immigrants), and using the police and other official crime records, he compared their criminality. What his study showed was that it was not the fact of migration but the cultural background from which the migrant came that influenced his criminality. Analyzing in more detail the criminality of the "new" immigrants, he found differential crime rate according to the different backgrounds. Comparing the criminality of immigrants from North Africa, and the "oriental" immigrants with the American immigrants, he concluded that the clue to their differential crime rates may quite possibly be found in the culture-conflict hypothesis because the general cultural economic, and educational standards of the North African and Asian immigrants, are relatively low compared with those of the American Jewish immigrants. Obviously, the general cultural and educational standards of the European and American Jewish immigrants were similar or closer to the standards of the receiving community. Comparing the adult criminality of the immigrants to those of the juveniles, the study concluded that the second generation immigrants had higher criminality than their parents.¹⁴

Beynon (1939) did a study to assess the occupational succession of Hungarians in Detroit, and in the process tested unwittingly albeit the culture conflict hypothesis. Information and data used in the study were obtained from the 1930 Census United States Information. Out of the 6 000 persons who were assumed gainfully employed, a sample of 1 023 persons was selected for the study. Of this population, 78.7% were gainfully employed and belonged to the first generation, but having been gainfully employed in Hungary prior to migration. In the occupational adjustment of first generation immigrants, Beynon found the factors of the ability to capitalize on previous occupational experience resulted in consequent normal adjustment. He also found occupational opportunities, language, transitory occupations, individual occupational experience, to influence the rate of adjustment and integration. Immigrants who had no previous occupation were found to maladjust and thus the tendency to illicit behaviour. He also found that the second generation of maladjusted immigrants, who were faced with the struggle to rise in status, had higher tendency to illicit behaviour.¹⁵

Norman S. Hayner (1942) also did a study to determine the factors of variability in the criminal behaviour of American Indians. In the study, Hayner compared the impact of Indian contact with the white man. In other words, he studied the

result of the impact of civilization on primitive people, claiming that the extent and character of contacts with white civilization have an important relation to the persistence of primitive ways--isolation encourages cultural vitality; alien stimulations facilitate tribal disorganization. Using police and court records and records from different Indian reservations, he analyzed the crime rate of each reservation. He also determined the degree or amount of contact of each reservation with white civilization by the distance of each Indian reservation from the nearest white civilization culture.¹⁶ He found that the closer an Indian reservation is to the white civilization, the greater their social disorganization, and thus the Indian criminal behaviour is a factor closely related to social contacts with white civilization. He also explained that higher rate of offences recorded against Indians is as a result of police officers' perception and stereotyping Indian behaviour as criminal--excessive enforcement of selected laws, for example, liquor laws in relation to drunkenness and violence rank high in Indian offenders. Hayner also called for critical examination of the biological interpretation of the Indian drunkenness and sex offences since most Indians are peace-loving, law-abiding citizens. He thus contends that social disorganization resulting from social contacts--(the degree and extent of which varies) weighs heavily on both the individual Indian, his personality and his group--the conflict of which

culminates in criminal behavior. They also result from the law enforcement reaction and perception of the Indian and the white man's policy towards the Indian.¹⁷

A slightly different approach was adopted by Clifford (1966) in his study of crime in Africa. To test the culture conflict hypothesis, Clifford (1966) did a study based on the African situation. Clifford noted the research problems usually encountered in a typical African scientific study, notably handicaps in getting "raw" data. The study was an inquiry in Zambia of juvenile delinquency: (1) as a concept; (2) its extent and development in Zambia since 1939; and (3) its causes in Zambia. In the first part of the study, Clifford employed information as gathered on tribal custom in relation to youthful offences to probe the different concepts of youthful crime in the traditional rural areas and the modern urban areas of the country. He also conducted twenty structured interviews with tribal elders in the rural areas and twenty similar interviews with town-dwelling Africans. Avoiding the term "juvenile delinquency" he obtained only ideas about attitudes towards "misbehaviour" in children and young people. He concluded thus, that the concept of delinquency in the rural areas has little or no difference with the urban people's idea of juvenile delinquency since town-dwelling Africans have clear ideas of tribal cultures and are in contact with their people

at home in the villages. In determining the extent and development of juvenile delinquency, he used police records and customary court records and interviews with headmasters to compare incidence of crime in rural and urban areas. He found that more crimes were committed by juveniles in urban areas than juveniles in rural areas, and that the presence or absence of police in the areas had little or no influence in the criminal rate. In determining the causes of juvenile delinquency in Zambia, he employed the method of background social inquiries, supplemented by a structured in-depth interview with each juvenile in two groups. He found striking differences in respect of home or family backgrounds. Clifford, thus, contends that in Zambia, juvenile delinquency means much the same in both rural and urban areas. Differences were only related to family relationship background: detribalization and culture conflict did not seem significant since it was as evident with non-delinquents as with delinquents. As juvenile crime was distinctly an urban phenomenon, the spread of urban culture appears to be far more important for crime in Zambia than any total or tribal influences.¹⁸

Clifford's study does not really permit one to draw any conclusions regarding culture conflict and crime. He did not deal with the conflict of legal norms stemming from the colonization history of Zambia nor did he deal with the impact

of occidental culture on the tribal way of life. He did investigate the orientation of those committing crime in terms of family background and the like, ignoring the possibility that these differences may have stemmed from a differential impact of occidental culture. He did also investigate the orientation of the spectators regarding their concept of delinquency, but in the comparison of recorded delinquency totally ignored these findings. Actually, Clifford's study does adduce considerable supportive evidence for the culture conflict hypothesis.

The present study seeks to explore the possibility of using the culture conflict hypothesis to explain crime in Nigeria. The paucity of published data prevents us from using the technique used by Jayewardene. We are able to obtain neither a sufficiently long series of criminal statistics, nor a sufficiently accurate measure of the normative power of values involved. Distance prevents the use of the technique utilized by Clinard. A questionnaire could perhaps have been used to determine the extent of occidental orientation on the part of Nigerians and the culture conflict hypothesis could have been tested on the basis that the more occidental oriented the Nigerians were, the more likely they were to commit crimes. However, the only culture conflict is not that emanating from the difference between occidental way of life and a Nigerian way of life, if such could be identified.

The culture conflict hypothesis could still be tested using historic-social analysis--the technique that has been used to test the conflict thesis of the genesis of the law. What is proposed to be done, is to analyze the historical development of Nigeria as a country to identify just those focus that promoted cultural diversification on the one hand and cultural integration on the other, and, second, to identify the state of the country as a whole in terms of cultural integration. In the context of the development of the country, the development of the law and the legal system will be analyzed to determine whether this development impeded or assisted in the process of cultural integration. These two analysis would indicate what could be reasonably expected in the crime picture of the country in terms of the predictions promoted by theory of culture conflict. The test of the culture conflict hypothesis would come in the analysis of the crime picture of the country and the support it lends to the explanation.

If the historical and the social development of the country indicates that operation faces promoted cultural heterogeneity and cultural diversification, instead of cultural homogeneity and cultural integration, a rapid increase in crime would be expected. This is temporal rise; spatial rise as a differential would be present. Those communities maintaining their cultural integrity and resisting cultural integration,

would be expected to have lower crime rates than those accepting the change and permitting the integration. Also, as the conflict affects succeeding generations more, the culture conflict hypothesis would indicate an increase in the incidence of juvenile delinquency.

FOOTNOTES

¹Sellin, T. (1938) Culture Conflict and Crime. (New York: Social Science Research Council).

²Clinard, M.B. (1942) The Process of Urbanization and Criminal Behaviour. American Journal of Sociology, 48, pp.203-213.

³Wirth, L. (1938) Urbanism as a Way of Life. American Journal of Sociology, XLIV, pp.1-24; also Wirth (1940) The Urban Society and Civilization. *Ibid.*, XLV, pp.743-755.

⁴Eastman, H.D. (1954) The Process of Urbanization and Criminal Behaviour: A Restudy of Culture Conflict. Unpublished Ph.D. Thesis, University of Iowa.

⁵Clinard, M.B. (1960) A Cross-cultural Replication of the Relation of Urbanism to Criminal Behaviour. American Sociology Review, 25, pp.253-257.

⁶Green, A.W. (1947) A Re-examination of the Marginal Man Concept. Social Forces, 26, pp.161-171.

⁷The concept of the 'marginal man' was first introduced by Robert E. Park (1928) in Human Migration and the Marginal Man. American Journal of Sociology, 33, pp.881-893.

⁸Green, W.A. (1947), *op.cit.*, pp.161-171.

⁹Jayewardene, C.H.S. (1960) Criminal Homicide: A Study in Culture Conflict. (Philadelphia: University of Pennsylvania Ph.D. Dissertation).

¹⁰*Ibid.*

¹¹Singh, A. (1973) Criminal Homicide: A Study of Culture Conflict in Canada. (Ottawa: University of Ottawa, Department of Criminology M.A. Dissertation).

¹²Ribordy, F. (1971) Culture Conflict and Crime Among Italian Immigrants. Canadian Journal of Criminology and Corrections, 13, pp.24-42.

¹³Young, V.P. (1932) The Pilgrims of Russian-Town. (New York: Russel and Russel).

¹⁴Shoham, S. (1962) The Application of the Culture Conflict Hypothesis to the Criminality of Immigrants in Israel. Journal of Criminal Law and Criminology, 53, pp.207-214.

¹⁵Beynon, E.D. (1939) Occupational Succession of Hungarians in Detroit. American Journal of Sociology, 39, pp.600-610.

¹⁶White civilization includes life style, economic status, broad highway, drunkenness and sex offences and other forms of criminal behaviour.

¹⁷Hayner, S.N. (1942) Variability in the Criminal Behaviour of American Indians. American Journal of Sociology, 47, pp.602-613.

¹⁸Clifford, W. (1966) Crime and Culture - An African Study. Canadian Journal of Corrections, 8, pp.157-166.

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5. Eastman, H.D. (1954) The Process of Urbanization and Criminal Behaviour: A Restudy of Culture Conflict. Unpublished Ph.D. Thesis, University of Iowa.
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7. Hayner, S.N. (1942) Variability in the Criminal Behaviour of American Indians. American Journal of Sociology, 47, pp.602-613.
8. Jayewardene, C.H.S. (1960) Criminal Homicide: A Study in Culture Conflict. (Philadelphia: University of Pennsylvania Ph.D. Dissertation).

9. Park, E.R. (1928) Human Migration and the Marginal Man. American Journal of Sociology, 33, pp.881-893.
10. Ribordy, F. (1971) Culture Conflict and Crime Among Italian Immigrants. Canadian Journal of Criminology and Corrections, 13, pp.24-42.
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14. Wirth, L. (1938) Urbanism as a Way of Life. American Journal of Sociology, XLIV, pp.1-24.
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16. Young, V.P. (1932) The Pilgrim of Russian Town. (New York: Russel and Russel)

CHAPTER III

NIGERIA: BRIEF HISTORICAL BACKGROUND

Nigeria is located on the West Coast of Africa, on the shores of the Gulf of Guinea (which includes the Bights of Benin and Biafra). It lies within the tropics between latitudes 4° and 14° north of the Equator and longitudes 3° and 14° East of the Greenwich meridian. It is bounded on the West by the Republic of Benin, on the north by the Niger Republic, on the east by the Republic of Cameroun, and it is washed on the south by the Atlantic Ocean.

During the last quarter of the nineteenth century and the first decade of the twentieth, the industrial nations of Europe took over extensive areas of Africa in competition with one another. Their prime aim, by this acquisition of African territories, was to obtain continuing supplies of raw materials for their burgeoning industries and potential overseas markets for their manufacturers. They did not consider, still less consult, the views of the indigenous people into whose lands they moved. Their diplomacy was only carried as far as was necessary to avoid a quarrel and possibly a conflict with a European competitor. Nigeria was thus an essentially European creation whose various inhabitants, having generally little relationship with, still less affection for, one another, were brought together willy-nilly under British jurisdiction.

With the cessation of Lagos on August 6, 1861, Britain commenced their rule of Nigeria and within the next 40 years Britain extended their rule into the hinterland. On January 1, 1900, they proclaimed the protectorates of Northern and Southern Nigeria. These separate entities were finally amalgamated on January 1, 1914, and for the next years were administered under a unitary form of government. Nigeria's population of about 80 million¹ is divided among some 400 tribes, many of them very small. But more important is the fact that the frontiers of Nigeria enclose three main groupings --the Ibos, the Yorubas and the Hausa-Fulani. The Hausas and the Fulanis predominated among the inhabitants of the North while the Yorubas and the Ibos predominated among the inhabitants of the South. In the South, the Ibos were restricted mainly to the Eastern provinces while the Yorubas were restricted to the Western provinces. It is the interdependence and the conflict of these peoples that constitute the core of Nigerian politics. Of the origin of these people, little is known. Their ancestors have left them practically no written records or monuments and their traditions, interwoven with myths and legend, are fragmentary and in many cases conflicting. Yet, of these people Oldham (1925) commented:

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The African is not clay to be cast into Western molds, but a living type which must develop in accordance with its own laws and express its own native genius.²

After the amalgamation of the protectorates, the British introduced an indirect rule system of administration. In this system, administrative power was delegated to local heads, local chiefs, emirs and obas, who were arbitrarily chosen by the British from among the traditional rulers for the task of local administration.³ They acted on behalf of the colonial authority with a British divisional officer serving as a mute reminder of the alien authority.

In the North, the administrative power was delegated to the emirs and alkalis who maintained public order, enforcing the law with the assistance of the local authority police.⁴ In addition to this, these authorities collected taxes, settled disputes, had powers of arrest, maintained courts--customary courts--and enforced the norms and customs of the area. In the South, where the Ibos and the Yorubas dominated, the administrative power was delegated to the chiefs and the obas respectively. They also collected taxes, maintained customary courts and settled disputes.

The system of delegated authority was particularly advantageous to British interest. It gave local chiefs a more or less absolute control which the British could use to their

advantage. Thus, they were able to convert courts which were arbitrarily run into instruments by which political agitators were suppressed and subdued. The activity was ascribed to the local chiefs with the British absolving themselves of any responsibility. They were thus able to make a two-pronged thrust to push the people towards a British way of life--the local chiefs to suppressing anti-British interests and the local people to questioning the ways that the local chiefs traditionally represented. The system, however, did not result in the disappearance of differences or in the firm establishment of the British influence. The different parts of the country remained essentially different with their own peculiar laws and their own style of administration.

In 1946, a change in the constitution made it possible for the three provinces to advise the central government on regional matters. In 1951, as a result of a constitutional conference, political parties--the National Council of Nigeria and the Camerouns (N.C.N.C.), the Northern People's Congress (N.P.C.), and the Action Group (A.G.)--were formed. These parties were representative of the ethnic groups in the country with the N.C.N.C. predominant in the East, N.P.C. in the North, and A.G. in the West. Also, as a result of this conference, the regional administrations became regional governments under a ministerial system. Later, pressure from

the politicians forced the British to introduce a federal system of government on October 1, 1954, and six years later on October 1, 1960, independence was granted to Nigeria with republican status attained on October 1, 1963. On the same day (October 1, 1963), a mid-Western region was created--carved out from the Eastern and Western provinces.

However, as the fact of amalgamation and British administrative ingenuity could not obliterate the marked differences in language, religion, custom and culture, political agitation and differences became more pronounced; led, as if to confirm Lord Lugard's observation when the nationalist movement was gaining force in Africa, by

...a self-elected and self-appointed congregation of educated African gentlemen who collectively style themselves the West African Congress ...a handful of men...born and bred in the British administered towns situated on the seashore, who in the Safety of British protection, have peacefully pursued their studies under British teachers in British Schools, in order to enable them to become ministers of Christian religion or learned in the laws of England... men whose eyes are fixed...not upon their own tribal obligations and the duties to their natural rulers which immemorial custom should impose upon them, but upon political theories evolved by Europeans to fit...wholly different circumstances.⁵

Political disturbances in all parts of the country, resulting from power struggles and ethnic tensions, culminated in a civil war which lasted from 1967 to January 1970. This

ushered in a military regime which ruled for twelve years. During this period of military rule, the country was further broken up into nineteen administrative states. As if to blame the British administrative arrangement and the legacy of common law and justice administration for the disorganization in the country, Nigerian authorities have abandoned the inherited British political and justice structure in favour of the American structure. Nigeria is now ruled by an executive president.

The Northern region of Nigeria occupies more than two-thirds of the country and has more than half the population. It constitutes the homeland of the Hausa-Fulani tribe. Originally, the people were farmers, herdsman and small-time traders but had over the years organized themselves into a series of city-states of which the Emir or Sultan was both the religious and temporal head. The absolute authority of the Sultan or the Emir made it possible for a tradition of law and order to prevail. Because of the early contact of the inhabitants with the Arabs--the Sudanic empire through the trans-Sahara and the southward trend of the conquering Moslems, Islam became their religion. This contact and exposure to Islam affected profoundly the social as well as the religious life of the people--and thus, until the present, Islam had formed the basis of their culture. In addition, a form of government grew up based on

the doctrines of Islam, with a well-organized fiscal system and a highly trained and learned judiciary, administering Islamic laws with ability and integrity. The Emirs and Alkalis maintained courts by which they administered Islamic laws but slowly the courts were converted into tools for suppression of their political opponents. Taxation was similarly used and abused. The original taxes levied and collected included 'Zakat', regarded in theory as alms paid by the faithful and fixed in proportions relative to the nature and quantity of the property, a tax on livestock was called 'janqali', a land tax known as 'kharaj', and a capitation tax called 'jizyah': conquered tribes were levied a form of tax called 'hausagandu'. To these were added other taxes: traders had to pay on the wares they sold, even prostitutes, dancing girls, and gamblers were taxed by one or another chief. Several other taxes, and even arbitrary fines were levied, most of them in disregard of the principles laid down in Islamic laws.

When the British colonized Nigeria, they did not tamper with the Islamic base or system of things of the Northern provinces since they were assured of their interests, especially under the treaties between the British Governor-General and the Emirs, whose cooperation was needed. These treaties outlawed missionary activities there. The result of this was widescale educational deprivation in the North, for the

Christian missionaries had brought education in addition to the gospel. The treaties also ensured that the native courts were independent of the British executives--the Alkalis administered Islamic law based on the doctrines of the prophet Mohammed as handed down in the Koran and by tradition, they included both the religious or Canon law and the social or civil code of Sudan. The laws of temporal rulers and governments were recognized only where they were not in conflict with the law of Allah-God, as expressed through his prophet. Thus, Islamic law was the law recognized and enforced in the North and, in most cases, taking precedence over the Nigerian criminal law. Even in 1959, when regional rule was established, the laws were being interpreted according to the Sudanic code. Highly organized native authority police enforced these laws and arrested people who violated the principles of Islam even if those people were not Moslems.

The British presence in the North permitted the area to remain culturally intact. Yet it created a class of people with stronger political power than they were entitled to according to traditional culture. The Emirs and Alkalis were backed politically by the British authority. With this additional support, they exploited the Islamic laws and courts, and entrenched themselves in positions of power. In addition to this, the Hausas, by virtue of their large population, were

able to dominate the Nigerian political scene in an occidental style democracy.

The Eastern region is the home of the Ibos. They occupy the area East of the river Niger. Not much is known of their origin but because of their warlike nature, they seemed to have wandered and converged from different points. Some myths, however, hold that they were Jews who must have travelled and fought their way through the North and settled in factions below the eastern side of the river Niger. Perhaps the myth originated from the observed fact that the Ibos have tremendous commercial ability, very traditional lifestyles, and some religious rituals akin, in meaning and symbolism, to those of the Jews. Their religion is based on the belief of the existence of a supreme being with their ancestors as intermediaries.

Before the arrival of the British, the Ibos fundamentally relied on their Council of elders (Ama-ala) for community organization, policy-making and social control. Leaders, who were later named chiefs when the British penetrated their area, were chosen by virtue of their contributions to the community and their performing expensive initiation and defined ritual ceremonies. They were also chosen by virtue of their ability to lead them in tribal wars.

Regardless of cultural differences between the Ibo groups, there are common characteristics typical of Ibo society. The Ibo respected age and leadership came from the elders. Respect was not servility and was balanced by the belief that birth did not confer advantage on any man. The Ibos were individualistic in aspiration and egalitarian, every man considering himself as good as everyone else and demanding a voice in his local affairs. Thus, being a chief was basically not considered a matter of inheritance or an inherited status. Because of this egalitarian character, Ibos were regarded as a chiefless society, the Council of elders (Ama-ala) being the main organ of policy making and public order. The political organization of societies without a central government which, in pre-colonial Africa, was usually headed by a single person (King, Emperor, Sultan, etc.), is usually described as a segmentary political system. This is perhaps how the Ibo political organization could be described since the Council of elders ruled each grouping or clan. The Council of elders also served as the village judiciary which convened when there was a dispute between individuals or when there was a matter of collective interest to decide or settle. The village square was the seat of such council or, at the request of the chief, it would be moved to the head chief's compound or the market square.

Since everyone had a right to rise in the society, Ibo culture emphasized competition between families, between lineages and between clans. Competition was promoted by Ibo national sports, wrestling and mock battles. Although men were born equal, they could also rise to positions of prestige through a combination of wealth and a record of service to the clan. Ibo society was, therefore, intensely democratic with a vigour characteristic of competitive, egalitarian societies.

The Ibos zealously protected their customs and traditions. These customs and traditions served as points of reference in their dispute settlements, policy decisions and social control. They have very close knit family ties with a broadly based extended family system where every member is regarded as brother or sister, the distance notwithstanding. They live inter-dependently with maximum respect for the elders. Respect for the elders was, in addition to their age, also because of their priestly functions. The family segment and lineage heads were responsible for rituals and sacrifices to the founder of the family, segment or lineage (ancestor) and this helped to maintain the peace, prosperity, and happiness of the group concerned. The rituals reminded the people of their common origin and helped maintain their unity and group awareness.

If a juvenile showed disrespect for elders, the juvenile or individual was regarded a delinquent. Even adults who showed disrespect for elders, especially titled elders, were usually disapproved of, or even disciplined publicly. Serious disobedience to the orders of the elders would usually merit a severe community sanction. Age-sets, besides being societies for mutual help and for discipline, were also convenient for organizing public works and for getting at individuals who disobeyed orders of the elders. So, though the Ibo dominant area had minorities who differed from the main Ibo stream group because of language, Ibos maintained social tribal cohesion--the collective spirit of the tribe.

When the British came into Nigeria, they could not penetrate far into Ibo Land and as a result the British Governor, Lord Lugard, classified them as 'primitive'. The Ibos, nevertheless became amenable to British influence by their contact with Christian missionaries--the missionaries were so successful that more than half the Ibo population are Christians and education was greatly encouraged, resulting in a comparatively high level of literacy. This gave them a dynamism which exceeded that of the Yorubas and surpassed that of the Hausa-Fulani. Their homeland in the South-Eastern part of the country, agriculturally poor, could not readily support the mass of the tribe, and were thereby encouraged, if not compelled, to seek

their livelihood in other parts of Nigeria. This, their relatively sound education readily enabled them to do, and during the colonial period the Ibos left their traditional lands in large numbers to take jobs elsewhere, particularly in the North as retailers, mechanics, engineers and clerks. Gunther (1955) observed:

The (Ibos) are a mobile, vividly industrious people--sometimes, they are called 'the jews of Africa'--and they are spread all over Nigeria as traders and small merchants...most Ibos have a lively sense of humour; they are clannish despite their individualism and hold together closely in non-Ibo communities; they are often unpopular because they push hard to make money;...But in fact, the Ibos today are so effervescent politically that the British sometimes differentiate between the 'good East' and the 'disruptive East' meaning by the latter the radical Ibo strongholds.⁶

Wherever they settled, they became an affluent minority among a majority who were by comparison, both poor and ignorant. In their own homeland area, the presence of the British had other ramifications. The Council of elders assumed a status never intended. The head chief, or paramount chief, became the traditional ruler and the president of the customary courts which had the elders as members. By clever manoeuvring or by foul persuasion, the British were able to install people of their choice as chiefs and elders and, through the system of dual mandate or indirect rule, ruled the Ibos. The Ibos, however, resisted the dual mandate system which forced authority

on them and preferring their own type of democracy where the Council of elders presided over disputes in a form of reconciliatory settlement. Though the indirect rule was imposed through the appointment of warrant chiefs, the chiefs nevertheless were literally forced to consult the elders before any action or judgement was made on any issue of public concern. A decision taken in a village meeting was more binding in Ibo Land than any criminal court decision. The Ibos preached and believed in equality of all people and equality of opportunities, but were soon to learn that their concepts of equality were slightly different from those of the British. The British Governor, Lord Lugard, made the distinction quite distinct:

The preaching of equality of Europeans and natives, however true from a doctrinal point of view, is apt to be misapplied by people in a low stage of development and interpreted as an abolition of class distinction.⁷

Women had a special position in Ibo society. In tribal wars they were not killed and they were exempted from paying taxes. So strong was this cultural element that in 1929, when the government levied income tax on women, the great Aba women's riot resulted which unseated many chiefs and led to the destruction of many government properties. However, in recent history, the many years of British influence in Nigeria seemed to have melted the Ibo traditional lifestyle and social organization. While the remnants of the old tradition

struggle to preserve the heritage of Ibo culture, the occidentally oriented or western trained Ibos seemed to have lost the disciplines and attitudes that once adorned their culture. Life in the cities is now preferred to life in the villages and the accompanying vices of life away from their group is no longer considered.

In the Western region live the Yorubas. They occupy the area between Lagos, Lagoon in the South and the Niger River in the North, and between the Dahomey frontier and the state of Benin to the East. They are the predominant race in the Western region, and a number of them are to be found in the Southwest of the Northern region. There is no definite knowledge of their origin but some historians believe the Yorubas came from upper Egypt because of some traditional rituals and culture similarities to those of the Egyptians.⁸ The Oni (King) of Ife was the religious head of the tribe and the custodian of the holy city Ife and the relics.

Before Britain colonized Nigeria, the Yorubas were politically organized. The Kings (Oni) and Alafins (chiefs) ruled and maintained a huge army which defended their absolute authority and conquered more territories for them. The King's governors were sent to govern conquered territories and collect taxes for the King. Though the King ruled absolutely in theory, in practice the King's absolute power was always in

check or controlled by the Council of elders. The choice of a King was limited to the members of the royal family but all routine matters related to choosing a new King were done in consultation with the Council of elders or the Kingmakers.

Among the Yorubas, suicide was regarded as an honourable death and those of whom convention required it seldom failed to take their own lives. Should they fail or hesitate, their own relatives would kill them to avoid the disgrace to the family. For example, it was traditional and usual for the eldest son of the Alafin of Oyo to be more or less associated with his father in the government of the tribe, but in order to check a tendency to patricide, it was a recognized law in Yoruba Land until 1858⁹ that the Aremo, as the eldest son was called, must commit suicide on the death of the King. Besides the son, several of the King's household were also required to end their lives by honourable suicide.

The custom was that each should go and die in his or her own home, and among his family... the house is full of visitors, mourners and others...while the grave is digging, the coffin making, a parting feast is made for all the friends and acquaintances...when everything is ready, the grave and the coffin approved of, they then take poison, and pass off quietly. But if it fails or is too slow to take effect, and the sun is about to set, the last office is performed by the nearest relatives (by strangling, or otherwise) to save themselves and the memory of their kin from indelible disgrace.¹⁰

The King was held in sanctity and this virtue was protected by making it impossible for any of the King's subjects to lay violent hands upon him, but should a need be for the King to commit suicide and refused, he would be dealt with in a suitable manner. The Yorubas had other etiquettes which were observed as customs of the society and these kept public order and maintained the authority of the King and society.

With the coming of the British and other Europeans, the Yorubas became educated equally as well as the Ibos but were never as ubiquitous as the Ibos. Their lands in the southwestern part of the country were fertile, and the wealth acquired from production of the cocoa-bean encouraged a more parochial attitude to life. Unlike the Ibos, they had no need to seek their fortunes elsewhere but stayed at home in their traditional cities and the flower of them became distinguished as lawyers, academics and doctors. They patronized the simple backwardness of the Hausa/Fulani but feared the forceful dynamism of the Ibos. In spite of the greater association with the British authorities, the infiltration of foreign religion and the nearness to Lagos--the seat of the British authority in Nigeria--the Yorubas preserved most of their culture.

With the cessation of Lagos on August 6, 1861, and the amalgamation of the Northern and Southern protectorates, Lagos was annexed and declared a colony which meant that it was

tribally neutral and politically the seat of the British administration in Nigeria. Though Lagos' population consisted mainly of the Yorubas, their King's authority did not extend to Lagos and thus, the customary laws of the tribes did not apply to Lagos. The laws operative in Lagos were purely the common law.

Nigeria, therefore, is essentially a conglomerate of regional groupings dominated by distinct political ideologies, distinct socio-cultural bases, distinct customary laws and, in all cases, tribal preponderance. Each ethnic group, large or small, is distinguishable by its language and culture. Every group jealously preserves its identity and resents any suggestion of being absorbed into or even administered by a larger group. There is fear among the groupings, especially the minorities, of being absorbed by the larger groups. To these smaller groups, loyalty to the group takes precedence over national consideration. Intermarriage among the various groups is by no means frequent, notwithstanding the liberal attitude of some educated class of Nigerians over tribal or ethnic consciousness, the difference in language creates a barrier which is not easily surmountable--for English is the only common language in the country and that is not yet universally spoken. Not only has this ethnic grouping

retarded the growth of common nationality, it has adversely affected the socialization of individuals who must be brought up in their communities, equipped to know and practice basic customs and traditions. Several decades of British influence in Nigeria produced a nation of cultural hybrids, of inter-tribal conflicts, dual justice system, unequal social, economic and political development. It has produced a class structured society--the 'haves' and the 'have-nots', a society at war with itself--too many rules and too many systems to go through. The fears and uncertainties of the system of things contribute to confusion and tensions which manifest themselves in disrespect for elders, in delinquency and crime. There is no better way to describe the Nigerian situation than to say in Yeats's words:

Turning and turning in the widening gyre
The falcon cannot hear the falconer;
Things fall apart; the Centre cannot hold,
Mere anarchy is loosed upon the world.¹¹

FOOTNOTES

¹The 1973 Controversial Census figure.

²Oldham, J.H. (1925) Christianity and the Race Problem. London: Oxford University Press, p.234.

³The Chiefs are the main traditional rulers' especially among the Ibos. The Obas are Chief equivalent among the Yorubas. The Emirs are the Oba and Chief equivalents among the Hausa-Fulani in the North. The Sultan is King equivalent. The Alkalis are less in status than the Emirs but are magistrate equivalent.

⁴Local authority police has been abolished in many parts of Nigeria, but it still exists in Northern Nigeria where they serve mainly to the needs of local governments enforcing Islamic laws.

⁵Flint, A. (1960) Sir George Goldie and the Making of Nigeria. London: Oxford University Press, p.308.

⁶Gunther, J. (1975) Inside Africa. New York: Harpers, p.760.

⁷Burns, A. (1969) History of Nigeria. 7th Edition, London: George Allen and Unwin Ltd., p.28.

⁸*Ibid.*, p.33.

⁹*Ibid.*

¹⁰*Ibid.*

¹¹Yeats, W.B. (1958) The Second Coming. In C. Achebe, Things Fall Apart. London: Heinemann Educational Books, p.1.

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CHAPTER IV

THE LAW AND THE LEGAL SYSTEM IN NIGERIA

Whatever may be the terminology that is used to explain the concept of law, both law and custom constitute rules of behaviour which seek to govern or guide the day-to-day interaction between people living together as a territorial unit to achieve peace and order. This may be legislated or enacted by a central authority in a politically organized society or it may be a code of norms as have evolved naturally in traditional societies as a result of people seeking to protect and preserve themselves and their way of life. Unfortunately, in some countries, especially those in Africa, South America and Asia, which were colonized at one time or the other, foreign laws or rules of conduct have been introduced to supercede or to exist side by side with their traditional customs. As these traditional customs are the norms that prevail and constitute their culture, they are the rules by which the people are socialized and taught to behave. As such they have a very potent effect on the behaviour of the individual. The contrast and the conflict that exists between the norms dictated by custom and the norms dictated by the imposed law, has been identified as a source of the criminality in colonized countries.

In Nigeria, as well as in a number of other countries that had been colonized, the problem has been further complicated. The first of these complications stem from the fact that before the colonization began, there did exist an established system of law and justice--the crystalized institutionalization of the customs of the people. In keeping with the

well established British policy of preserving, as far as was compatible with imperial rule, the institutions of newly dependent territories ...and perhaps in recognition as well of the fact that--any attempt to abolish that law would have been...futile.¹

the British permitted the system of customary law to operate side by side with a common law system that they introduced. By this means, they sought to avoid the problem it would create in terms of the immediate hostile attitude of the natives consequent to the rejection and abolition of an institution that meant so much to them. The dual system of justice thus created, brought with it a number of problems. First there was the question of which law took precedence and this involved both the behaviour that was to be outlawed as well as the sanctions that were to be utilized. The answer, of course, was obviously the system introduced by the British especially as its introduction was justified in terms of a trust mandated them to assist in the development of the native from his primitive and savage state to a civilized one. However, in practice, the answer was not that simple.

The law introduced by the British in most colonies, though presumably reflecting the common law of England, was a code that was developed by a colonial office to meet the evolutionary needs of the colonized people. The development of these codes did not take into account estimates of immorality and social harm that reflected the aspirations and the beliefs of the people for whom it was developed, but rather their supposed state of development in an evolutionary system. Thus, the codes were models that could be introduced into a number of countries. The code developed for India was introduced into the neighbouring countries of Burma and Ceylon. The code introduced into Nigeria was that designed and developed for the Australian state of Queensland. This code incorporated ideas and concepts that were not only incompatible but also in direct conflict with African traditional usage--a fact that Milner (1972) claims, was responsible for the difficulty experienced by the British in securing acceptance of their system of criminal law in African countries.

The basic aim of the Nigerian customary system of justice, Milner points out, "was to compensate the injured party in such a way as to leave him no worse off than he was before. It did not embrace the idea, except in special circumstances, that an offence was committed against the State..."² The customary terms of dispute settlement in Nigeria had as its common

objective, the pacification of the contestants and the healing of the rift in the community caused by or causing crime.

Though the British system shared the same idea, it did so in a limited way. The British system was geared to heaving the representatives of the state processing criminal behaviour in such a way as to ensure the prosecution, conviction and sentencing of the offender to bring the laws deterrent, retributive, preventive and other forces into play. In this case, attention is drawn to the crime, and the criminal is dealt with for the wrong he has done, not to the individual victim, but to the community of which he forms part.

From almost the very beginning, it was made clear to local rulers that their customary penal structure would be brought under the close scrutiny of the British administration.³ As a result, parts of the customary system were systematically abolished until it is no longer in force officially. By Native courts proclamation in 1900, Section 9, mutilation and torture were prohibited, trials by ordeal and their built-in penalties were made illegal,⁴ and slavery, which had been a customary way of dealing with persistent offenders, was finally legislated away after being the subject of treaties and ordinances since the 1830's.⁵ The remaining penalties were made subject to the requirement that they should not be repugnant to "natural justice and humanity,"⁶ a requirement which was to continue

until they were completely abolished. Death sentences passed by native courts were carried out, not in the native methods of hanging, stoning, drowning, burying alive, and killing by the identical means used by the murderer. These were disallowed. Even the native forms of corporal punishment were limited to only rattan canes, and single-tailed whips of prescribed dimensions. Limits were further placed on the power of the native courts by specifying their powers of sentence, either by Statute⁷ or in the warrants establishing the Courts. The limitations did not mean the unquestioning acceptance of the sanctions provided for in the criminal code. Sanctions, which were akin to those imposed by or reflected them were readily taken over by the customary courts as their most common sentence. Sanctions which did display this relationship, even though they may seem to the outside observer to be hardly controversial, were skinned. Thus, the use of both probation and training schools were not resorted to as being incompatible with Islam and Islamic law which constituted the base of the customary law in the Northern provinces. Imprisonment too was deplored for the disturbing social effects it had, especially when first introduced by the British administration.

Legislation did not always produce the desired change.

In the customary system there were arrangements that permitted infractions when the formal system appeared defective. Thus,

a complainant in a private suit could bring his grievance to the attention of the central authority or Council of elders, particularly where notice is taken of public offences only by deliberately committing anyone of those public infractions of which the chief or elders will take cognisance.⁸ When the law placed them in an impasse, a relatively easy way of getting out had been devised. Driberg (1934) writes:

...if any custom or law begins to feel oppressive, they do not care to abrogate it at once on account of its religious sanction. Instead, they devise a ceremony which in any particular case will absolve them from the operation of the old law. I may cite as an example a Thonga ceremony which breaks down the blood tie and thus authorizes a form of marriage legally incestuous. In course of time, the ceremony becomes an important thing and takes the place of the obsolete law.⁹

The second complication arose from the fact that Nigeria, as was administered by the British as a colony, comprised territory inhabited by a number of different peoples. In the North, there were the Hausa/Fulanis. In the East, there were the Ibos and in the West there were the Yorubas. Before 1862, when Britain started the colonization of these areas, each one of these groups had their own culture and their own system of justice and their own customary laws. When the British decided to preserve the indigenous culture, they were committed to the preservation of a number of customary systems. Before the British colonized and amalgamated the different tribes which form the present Nigeria, the tribes lived in areas with rigid

geographical boundaries and persons going into the territory of another tribe had to obtain permission and was protected under the Chief's grace. The laws, that time, were rigid. But if a person violated the laws of the host tribe, he was to be judged according to the laws of his own tribe. This was usually seen as a token or good gesture and respect for the leaders of the tribe of the persons concerned. Thus, in an area, there were the local customary laws governing the members of a tribe as well as personal laws--the laws binding on a non-member of the tribe and pertaining to the tribe he belongs. When the British authorities amalgamated these tribes, the same practice continued though in the Alayo case (1946)¹⁰ Brooke J. said that there was no concept of "personal law" in Nigeria. Nevertheless, the courts do regularly employ the notion, and indeed the same judge had used the identical term one year previously in Tapa v. Kuka (1945).¹¹ When migratory movements were rare, the dual system of customary law did not pose many problems. But the disappearance of the rigid geographical boundaries defining the territory of the different tribes, the growth of the population and its increasing mobility, did tend to bring these problems to the surface.

Still, in Nigeria, most of the inhabitants of a particular locality do belong to one tribe, but in every area there is a minority whose origins lie in different communities. It is

principally in relation to such minorities that the problem arises. When a member of one of them becomes involved in a legal action arising in the area, assuming the English law or local statute law do not apply, the issue is whether the case is to be decided in accordance with the local law or under what may be called the "personal law" of the individual involved. In Ghamsun v. Wobill¹² case (1947), it was revealed that two alternatives existed. Either the law "prevailing in the area of the jurisdiction of the Court or the law binding between the parties" could be applied. The first of those possibilities was interpreted by Ademola J. in R. v. Ilorin Native Court, ex: P. Anemu.¹³ The Judge rejected the submission that there could be more than one customary system prevailing in a particular area, and held that "prevailing" meant "predominant."

In Eastern Nigeria, Section 23(1) of the Customary Law of Eastern Nigeria, provides that the law to be applied is the customary law prevailing in the area of the jurisdiction of the court, or the law binding between the parties. There is no parallel provision for the federal territory which contains no native or customary courts. In Northern Nigeria, Section 20 of the Native Courts Law, 1956, contains the usual general provision that "a native court shall administer (a) the native law and custom prevailing in the area of the jurisdiction of

the Court or binding between the parties." Whatever the judicial interpretation may be, there is the statutory recognition of two systems of customary law--the law prevailing in the area and the law binding on the parties. Usually, the two would be the same because the prevailing law would be that of the majority tribe and consequently would be the law binding on the majority of the people. Sometimes, however, it could be otherwise and with a difference that could be very significant. This is particularly so in Northern Nigeria where the prevailing customary law is Islamic in origin but with a sizable non-Moslem population. Should a case between two Christians residing here be dealt with under the Islamic law? This was the question asked in the region's County Appeal Court in Osuagwu vs. Soldier.¹⁴ This was an action between two Ibos residing in Kaduna in which the plaintiff claimed the value of a box of clothing which, he alleged, he had entrusted to the defendant for safekeeping. The first instance court was the Alkali's Court at Kaduna where the Alkali applied Islamic law and awarded damages to the plaintiff. The defendant appealed on the ground that Islamic law should not have been applied, and the High Court accepted his contention. The Judge pointed out first that the case was not a "mixed civil cause" within Section 21(2) of the Native Courts Law (because the parties' personal laws were the same coming as they did from the same

tribe) so that the relevant Section was Section 20(a). That section required the Court to choose between the native law and custom prevailing in the area and the native law and custom binding the parties, and in a case of the type before it, the latter alternative should be preferred:

We suggest that where the law of the Court is the law prevailing in the area but a different law binds the parties, as where two Ibos appear as parties in the Moslem Court in an area where Moslem law prevails, the Native Court will--in the interests of justice--be reluctant to administer the law prevailing in the area, and if it tries the case at all it will--in the interests of justice--choose to administer the law which is binding between the parties.

It was clear that the parties intended Ibo law to apply, and accordingly, the court remitted the case for a retrial before the mixed court Kaduna.

Another problem area in the North lies in the authority of the Sharia Court of Appeal. This Court over-rules the principles applicable to internal conflicts between different customary laws in the North. Section 12(e) of the Native Courts law empowers the Sharia Court--(the Sharia Court is the Moslem Appellate Court with equal status as the regional High Court--it advises the regional high court on matters of Islamic law), to apply Islamic law to any matter where all the parties have submitted a written request to the Court of First Instance that Islamic Law should be applied. For some time now, Moslems in Nigeria have been agitating for the elevation of the Sharia

Court to the same status as the Supreme Court of Nigeria. Their contention is that the Supreme Court does not protect the interests of Islamic principles. This, however, has been reduced to political controversy.

In many parts of North Nigeria, Islamic law is the predominant law of the area. It becomes a problem where the question may arise at whether it is the personal law of any particular individual. For Islamic law, unlike tribal laws, is not grounded in any particular locality and may operate in areas even where it has not displaced the tribal law. In such areas, it is not the predominant law but can become the personal law of some individuals and thus, the relationship between it and the local customary law system becomes in some respects analogous to that between the introduced English law and customary law throughout Nigeria. Most persons are ordinarily subject to one system: a few are subject to the other.

Law or systems of law as an instrument of social control influences culture--the way that people choose to live. The theory of culture conflict claims that when the influence results in a convergence of core values, peace and order would prevail because the way people live become more or less the way they are expected to live. If, however, the influence in a diversification and divergence of core values, lawlessness

and crime would be the result because of the absence of a generally accepted way of living. The law and the legal system introduced by the British, created a diversification of core values raising the question of which law was to be applied in specific issues of cultural significance. In addition to this, the British influence precipitated conflicting power structures in the community, altered the socio-economic conditions and the traditional sanctioning attitudes with the behaviour and attitudes of the people slowly changing to fit the British ideas and ideals. All this occurs at a time when Nigeria is experiencing a rapid but differential development, demonstrating extremes of urban anonymity and village cohesiveness. A vast number of small, established village communities still exist, which have never been detribalized and in which there is much to suggest that traditional patterns of social control may still be relevant. Though there is evidence that in some areas in the East and West complete assimilation of different social groups has occurred and many groups moving from one area to another do not assimilate into their host communities but rather retribalize and retain both distinct residential segregation and cultural homogeneity. The 1966 Ibo massacre by the Northerners and the consequent Nigerian Civil war of 1967-70, are good examples of the incompatibility of the tribes. The causes can be traced to power struggle originating from cultural dissimilarities of which the British

administrators perpetuated and encouraged through their policy of divide *et impera*--divide and rule. The conflicts are also founded on the misuse of Native Courts interpreting customary laws and behaviour. It is also founded on the discrepant relationship between the customary law and English common law precipitating a duality whose tactics, methods and operations have influenced both the individual and collective behaviour of the people.

The conflicts between the English law system and the customary law systems of the Natives, and the conflicts between the different customary systems have tended to produce a sort of state of anomie in which there exist so many divergent codes of behaviour that prevent individuals from knowing exactly what code they are to follow. In addition to this, the pressures to conformity exerted by the same code on different individuals and by the different codes on the same individual are so great that it creates in the individuals a conflict and an uncertainty that prevents them from behaving in a legally approved manner. The conditions of culture conflict promoting criminal behaviour are thus evident in Nigeria.

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FOOTNOTES

¹Park, A.E.W. (1963) The Sources of Nigeria Law. Lagos: African Universities Press, p.69.

²Milner, A. (1972) The Nigerian Penal System. London: Sweet and Maxwell, p.43.

³Nigerian Law Journal (1965), Vol.173.

⁴Ordeal, Witchcraft and Juju Proclamation, 1903 (S), 1908 (N).

⁵It was first the subject of treaties with local coastal rulers and was then regulated on a broader basis by the slave-dealing ordinance 1874 (Gold Coast Colony), the emancipation ordinance 1874 (Gold Coast Colony); the Slavery proclamation 1901 (N), the Slave dealing proclamation 1901(S) and the Slavery abolition ordinance 1916.

⁶In the South was an additional requirement that punishments in default of payment of fines should be "not repugnant to natural justice or to the principles of the law of England's Native Court's proclamation 1901, S.27(S). Also Nigerian Supreme Court Ordinance no.23, 1943.

⁷Example, Native Court proclamation 1901, SS:14, 16 (S).

⁸Elias, T.O. (1972) The Nature of African Customary Law. Great Britain: Manchester University Press, p.220.

⁹Driberg, J.H. (1934) African Conception of Law, Journal of Comparative Legislation and International Law, 11, pp.242-251.

¹⁰Re Alayo (1946) 18 N.L.R.88.

¹¹Tapa vs. Kuka (1945) 18 N.L.R.5.

¹²Ghamson vs. Wobill (1947) 12 W.A.C.A. 181 (Gold Coast).

¹³R. vs. Ilorin (1953) 20 N.L.R.144.

¹⁴Osuagwu vs. Soldier (1959) N.R.N.L.R.39.

¹⁵The Ibos in the Northern towns mostly settle in Sabon Gari-- Ibo ethnic concentration where they maintain their distinct Ibo culture so much that the area is called Ibo quarters. Conversely, the Hausas maintain or retain their Islamic culture in other cities in the South. See Cohen (1969) Customs and Politics in Urban Africa - Hausa Community of Sabo Ibadan. Glencoe: The Free Press.

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CHAPTER V

THE STATE OF CRIME

It is hard, observed Milner (1972), to give an accurate picture of the volume of criminal activity in Nigeria. Not only is there the "dark figure" of crimes lost in the Commission-reporting processes, which can be expected in any country, but there are the particular difficulties in these processes which are associated with the growth of Nigeria itself: Reconciliation is basic to the idea of dispute settlement. A survey of Yoruba villages in 1963 revealed that

...the great majority of respondents...were opposed to taking quarrels to the police. If this were done, they said, the two litigants could never again be friends, and in addition, it would cost money.¹

Most of the villagers questioned reported crimes to their village head, a smaller number to one of the elders of the village and only a few to the head of their house. Other factors contribute to this behaviour amongst which are the close-knit nature of Nigerian families, and the notion of good neighbourhood--towards the maintenance of peace in the neighbourhood, and perhaps poverty in terms of fear of having to bribe the police which is a common practice--

In Nigeria, the acceptance of bribes by government officials is blatantly public and virtually universal.²

and the cost of legal fee. This illustrates how an understandable conflict in social roles may reduce the official awareness of crime.

The administrative structure of the early Nigerian police force was such that the colony had its own police, while the regions had a locally organized police force--the Native Authority Police. This segment had allegiance to local politicians who used them as instruments of oppression and, in some way, criminal activities. The operation of the Native Authority Police was constitutionally approved since the amalgamation of modern Nigeria, and these local police make the structure and organization of the Nigerian police extremely complex. In the Western State, smaller forces are combined to form provincial commands. In the North, local police autonomy has, until recently, been fiercely preserved. Local government police were brought more firmly under the operational control of the Federal forces only in 1966, but their inter-relation had still to be worked out properly. Their level of efficiency varied considerably from place to place and from time to time. These local forces were not controlled by the Central police and were not accountable to them. The crime control activities carried out by them and the crimes known to them remained in the main, unrecorded events. The magnitude of the problem is pointed out by Milner (1971). He states that:

...a possible source of errors may be in the relationship between the Nigerian police and the local government police. In the North alone, the local police deal annually with some 400 000 cases and the omission of these from the national totals would cause considerable distortions.

Effective law enforcement and crime reporting need a sensitive relationship between the members of the community and the police, a relationship which builds respect for socio-legal norms and for the police as supporters of these norms. Unfortunately, in many Nigerian localities, this relationship did not and still does not exist; as allegations of police dishonesty and brutality to suspects and witnesses are all too common. Though in Nigeria research materials and scholarly writings on police administration, especially on police dishonesty, are scanty, Chambliss (1976) revealed in his study of patterns of crime in Nigeria that:

In at least Ibadan and Lagos, gangs of professional thieves operated with impunity. These gangs of thieves were well-organized and included the use of beggars and young children as cover for those activities. The links to the police were sufficient to guarantee that suspects would be treated leniently, usually allowed to go without any charges being brought. In one instance, an entire community within the City of Ibadan was threatened by thieves with total destruction.³

Chambliss notes in his study that though Ibadan is dominated by the Yorubas, there are nevertheless large numbers of Hausa, Ibo, and other ethnic groups living there. The Hausas--who are strongly Moslem, occupy a ghetto within Ibadan which is almost

exclusively Hausa-dominated. The Hausas are an immigrant group in Ibadan, he notes, and one might expect their crime rate to be high. However, even though there is general belief that the Hausas are responsible for some of the more efficient and effective groups of professional thieves in the area, there are few Hausas arrested for crime. This is apparently not because of their rare involvement in the crime but because they have a strong leadership which intervenes with payoffs and cash to government and police officials whenever a member of their community is in difficulty. The actual crime figures are further reduced by the fear engendered by this police-criminal liaison. Fear of reprisal by the thieves, and also harassment by the police, make crime often ignored, not reported, and even concealed.

Even when the police services are functioning properly, they may make an inaccurate count of crime because the crime count ignores those crimes that are dealt with according to traditional methods of dispute settlement or the traditional lines of social and political authority.

Nigeria had civil war from 1967-70, and during this period the entire Eastern Nigeria, which seceded from the rest of the country, was totally cut off from the jurisdiction of the Nigerian police administration. The crime figures for the country during this period of time do not contain crimes committed in the seceded area.

The picture available through officially recorded statistics is indeed incomplete and inaccurate and it could perhaps be contended that any study using these statistics is analysing a totally and unrealistic situation. This contention, however, is only true if crime is seen as an act committed by an individual. If, however, crime is seen as such an act after it has been subject to a series of interpretations that reveals that the people are intolerant of that behaviour and demands some concerted action be officially taken to control it, then the officially recorded statistics assume some meaning. Dealing with the problem imposed by official crime statistics on the testing of the culture conflict hypothesis, Sellin (1938) contended that the study should be extended to the violation of conduct norms and not limited to the violation of legal norms⁴ and thus, contention stems from the fact that Sellin's focus on the acts that an individual commits, viewed as a manifestation of the values cherished by the group to which he belongs. If, however, the investigation is focussed on the central theme of the culture conflict hypothesis that crime stems from a conflict between how the individual has learnt to behave and how society expects him to behave, then the process of interpretation of behaviour is relevant and officially collected statistics assume a very significant meaning. They indicate the extent of either convergence or divergence of the

core values of the different groups revealed by the willingness of groups to tolerate the value dictated behaviour of the other groups. Official crime rates reveal the extent to which the official law enforcement machinery has been put into motion to control and contain people. It is for this reason that the crime picture in Nigeria is being studied with the assistance of official statistics in this study seeking to evaluate the value of the culture conflict hypothesis as an explanation for crime in Nigeria.

For purposes of recording and reporting crime in Nigeria, crimes have been classified under five main headings. First, there were the offences against the person. Falling into this category were crimes such as murder, manslaughter, malicious wounding, rape, robbery, robbery with violence, slave dealing, assault and resisting police arrest, and other such offences. Then there was homicide--a separate category of its own. Third, were offences against property comprising offences such as house-breaking and burglary, entering with intent to commit an offence, extortion, stealing, theft, obtaining by false pretences, arson and other such offences. Fourth, were the offences against public order, law and morality which included breach of the peace, bribery, contempt of court, customs, fraud, indecent acts, ordeal by witchcraft, perjury, post and telegraphs, railway, riots, unlawful assembly, vagrancy, and

other such offences.⁵ In this category, there was a sub-category which comprised forgery and offences against the currency. This consisted of offences such as forgery and uttering, forgery coining, and possessing counterfeit coins and currency offences ordinance. The fifth and final major category was the miscellaneous offences. In the police annual reports, this is sometimes labelled as 'other offences' and it includes adulteration of produce, drunk and disorderly, arms ordinance, illiterate ordinance, shipping and navigation ordinance, licensing of boats, markets ordinance, police ordinance, prisons ordinance, survey ordinance, towns ordinance, weights and measures ordinance and other offences.⁶

The annual report of the Nigerian Police is the only source of official data on crime in Nigeria. Occasionally, there is some data available on the activity of native authority police and the courts, but this data does not lend itself to any form of trend analysis. The data used were those reported in the annual reports referring to the criminal cases brought before the Supreme Court and provincial courts. They do not include cases tried by the Native Courts.

Changes in population demand the computation of a rate or ratio for comparative purposes to take care of fluctuations in crime occasioned by population changes. This rate, however, only takes care of the changes occasioned by the change in the

actual number of people in a country. It does not take care of changes occasioned by changes in the age structure of the population. Studies conducted on the influence of the age structure on crime statistics⁷ seems to indicate that the best measure of crime would be a standardized crime rate. For this accurate population, data is needed. In Nigeria, the population figures are supposed to be notoriously unreliable. According to these figures, the population of Nigeria grew from 18 million at the 1921 census, to the present controversial 80 million. There is an unprecedented and relenting upward curve through 34 million in 1959, to an estimated 40 million in 1962, and over 55 million at the 1963 census. These are jumps so massive that the figures have ever since been the subject of considerable controversy.

In addition to these, the officially published data contain other defects which limit their usefulness. First, data are not available for the period prior to the amalgamation. Second, even after the amalgamation, the data available is often fragmentary. When the 45-year period 1921-1965, the period for which the annual reports of the Nigerian police are available in Ottawa, is considered, it is found that only the numbers for the Northern province are available for the years 1923, 1924, 1925, 1926 and 1927, that the numbers for the colony are not available for the year 1931, that no crime

figures are available for the year 1936, 1937 and 1938, and again for the year 1951 through 1955, and that only the grand total is available for the year 1945 through 1950 and again for the years 1956 through 1964.

Table 1 shows the number of crimes committed in Nigeria from 1921 through 1965. Since 1965, Nigeria has been plagued by internal strife with civil wars and a chain of coup d'etats which pushed the business of crime recording to an activity of relative unimportance.

Table 2 shows the number of offences reported to the police and the crime rate per 100 000 population during the period 1955 through 1964. The rates indicate an initial increase until 1957, a dramatic fall in 1958, and then a regular pattern of an increase followed by a decrease in almost every subsequent year with an overall trend of decrease. Because of the uncertainty of the population figures, it is not possible for one to decide whether the decreasing trend was an actual occurrence or only a statistical artifact. When the actual number of offences reported to the police are considered, the decreasing trend is not evident. The initial increase until 1957 is seen, the dramatic decrease in 1958 is also seen, but after the decrease in 1960, the total numbers have slowly but steadily increased. The general tendency in Nigeria, as reflected in the police reports, has been to view the crime situation as an aggravating rather than an ameliorating one. The trend indicated by the

TABLE 1: CRIME IN NIGERIA 1921-1965

Year	Southern Provinces	Lagos	Northern Provinces	TOTAL
1921	13,357	-	-	-
1922	13,833	-	2,714	16,547
1923	-	-	2,899	-
1924	-	-	2,961	-
1925	-	-	3,064	-
1926	-	-	2,916	-
1927	-	-	2,936	-
1928	13,785	-	2,667	16,452
1929	14,871	-	2,123	16,994
1930	11,786	8,432	2,734	22,952
1931	9,766	-	2,734	-
1932	-	-	-	-
1933	11,749	4,704	2,941	19,394
1934	10,554	5,960	2,567	19,081
1935	10,571	8,817	2,535	21,923
1936	-	-	-	-
1937	-	-	-	17,991
1938	-	-	-	-
1939	-	-	-	-
1940	-	-	-	-
1941	-	-	-	-
1942	-	-	-	-
1943	-	-	-	-
1944	-	-	-	-
1945	-	-	-	34,890
1946	-	-	-	35,740
1947	-	-	-	32,540
1948	-	-	-	42,550
1949	-	-	-	45,073
1950	-	-	-	51,234
1951	-	-	-	-
1952	-	-	-	-
1953	-	-	-	-
1954	-	-	-	-
1955-56*	-	-	-	157,648

TABLE 1: CRIME IN NIGERIA 1921-1965 (Cont'd)

Year	Southern Provinces	Lagos	Northern Provinces	TOTAL
1956**	-	-	-	159,335
1957	-	-	-	182,718
1958	-	-	-	112,794
1959	-	-	-	137,050
1960	-	-	-	106,165
1961	-	-	-	110,019
1962	-	-	-	118,475
1963	-	-	-	128,981
1964	-	-	-	158,043
1965	-	-	-	-

* Year ending 31st March 1956.

**For the period 1st April 1956 through December 1956.

SOURCE: Annual Reports of the Nigeria Police Force.

total numbers is being accepted as a reflection of the real situation rather than the trend indicated by the rate. Consequently, it is this increasing trend that has bothered most people. Several explanations have been given for it. The most common has been the influence of politics, and specifically the divisive and conflictual effect that the Federal elections had on the country. The elections allegedly brought with it much violence--thuggery, assault causing bodily harm and even murder. In addition to this, the elections ushered in a period of considerable political instability and disorder climaxing in civil strife and successive coup d'états, all supposedly contributing to the increasing crime rate. However, the distribution of crime among the various categories does not lend support to this explanation. Crimes of violence against the person, it can be seen from Table 3, showed an unrelenting decrease from 45.4% of the total in the year 1955-56 to 18.7% of the total in 1964. Crime in all other categories showed an increase. Police reports suggest that the decrease in this crime category can be credited to improved police surveillance, stiff penalty and more people making use of the law enforcement agencies, than arbitrarily taking the law into their own hands.

The category of property offences show an increase from around 20% of the total in 1956 to around 35% in 1964. Into

TABLE 2: OFFENCES REPORTED TO THE POLICE AND CRIME RATES 1955-64

Date	No. Offences	Rate/100,000 Est. Population
1955-56*	157,648	477.7
1956	159,335	482.8
1957	182,718	537.4
1958	112,794	331.7
1959	137,050	397.2
1960	106,165	279.4
1961	110,019	282.1
1962	118,475	296.2
1963	128,981	234.5
1964	158,043	287.3

* Year ending 31st March 1956, and those for 1956 for the remaining months of the year.

SOURCE: Annual Reports of the Nigerian Police Force, 1955-64. Population figures have been taken from Nigerian Annual Reports until 1960 and from official Government estimates or census returns since then.

the group of offences also fall bribery, robbery and the unlawful cultivation and possession of Indian hemp. These offences accounted for only less than 10% of the total of 56 482 property offences.⁸ Thefts, burglaries, house and store-breaking made up almost 90%. The increase in this category has been attributed to the changing values and patterns of life inherent in a growing economy. When a country is undergoing rapid techno-industrial change, experiencing a shift from a "Gemeinschaft"--traditional community--to "Gesellschaft"--industrial society--type of existence, as well as a widening of the gap between the 'haves' and the 'have-nots', the economic differential between the different groups in the community becomes more clearly marked, leading to an increase in crime against property.

The category of 'other offences' also shows an increase. Most of the crimes in this category are the crimes of public order and morality which includes witchcraft, breaches of urban regulations concerned with public health, street trading, markets and the like.

The police reports claim that there has been an increase in the country's crime rate from almost year to year. They also claim a shift from crimes against the person to crimes against property. The 1961 Police Annual Reports claim that crime trends noted in 1960 continued in 1961: offences against

TABLE 3: OFFENCES REPORTED TO THE POLICE 1955-65. DISTRIBUTION OF TYPES OF OFFENCES AS PERCENTAGES OF ANNUAL TOTALS

Date	No. Offences	Person	Frauds	Breakings	Thefts	Other
1955-56	157,648	43.4	1.0	4.7	22.7	28.6
1956	159,335	36.9	0.8	4.9	21.5	28.7
1957	182,718	29.9	0.9	5.1	24.3	39.9
1958	112,794	26.0	8.3	8.3	28.9	35.2
1959	137,050	29.6	8.6	8.6	27.6	32.7
1960	106,165	15.7	8.0	8.0	25.1	49.3
1961	110,019	16.3	8.2	8.2	28.7	44.7
1962	118,475	15.4	8.7	8.7	28.1	45.4
1963	128,981	16.9	8.8	8.8	27.9	44.3
1964	158,043	18.7	7.9	7.9	33.4	38.2

SOURCES: As for Table 2.

the person increased by 8%, while property offences (mostly theft and burglary) were up by almost 16%. The value of property stolen was worth over 3 million Naira (approximately \$3.5 million Canadian), an increase of more than 100% over the 1960 figure.⁹ The 1965 report makes a similar observation: person offences increased by 3 000 and property crimes by approximately 9 000 offences over the 1964 figures. In 1965, of the recorded 330 criminal offences committed by male juveniles in Lagos alone, 212 were property offences ranging from stealing to outright robbery.¹⁰ When the short term trends--from year to year--are considered, the police observations would perhaps be an accurate depiction of the situation in a particular year, but when the long term trend is considered, it is not a factual representation. As to what has happened to the actual incidence of crime in terms of quantities, one could not make a definitive statement. The quality of crime, however, has changed and there is a marked shift away from crimes of violence against the person.

The distribution of the offences in the various parts of the country are shown in Tables 4 and 5. Table 4 shows the distribution as a percentage of the national total, while Table 5 shows the distribution as a percentage of the offences occurring in that area. These tables show the patterns of crime to be different in the different parts of the country.

TABLE 4: OFFENCES REPORTED TO THE POLICE 1960-64. DISTRIBUTION BY TYPE OF OFFENCE AS PERCENTAGE OF NATIONAL TOTAL

Jurisdiction	No. Offences	Person	Fraud	Breaking	Theft	Other	All Offences
Lagos	116,517	5.3	12.0	10.7	16.7	21.0	15.6
N. Nigeria	260,429	39.8	41.3	27.7	36.3	32.8	35.0
E. Nigeria	189,191	33.6	26.4	34.7	30.5	15.6	25.4
W/M-W* Nigeria	177,209	21.2	20.1	26.7	16.4	30.5	23.8
Totals	743,346	99.9	99.8	99.8	99.9	99.9	99.8

* Mid West Region was only created in 1963, the figures are incorporated in the Western figure.

SOURCES: As for Table 2

TABLE 5 - OFFENCES REPORTED TO THE POLICE 1960-64. DISTRIBUTION BY TYPE OF OFFENCE
WITHIN REGIONS AS PERCENTAGE OF REGIONAL TOTALS

Jurisdiction	No. Offences	Person	Fraud	Breaking	Theft	Other	Totals
Lagos	116,519	6.8	1.4	5.2	32.0	54.5	99.9
N. Nigeria	260,429	22.8	1.5	6.2	31.2	38.2	99.8
E. Nigeria	189,191	26.5	1.4	10.7	35.9	25.4	99.9
W/M-W Nigeria	177,209	17.4	1.1	8.8	24.0	51.6	99.9
Nigeria	743,346	20.1	1.3	7.8	30.1	40.6	99.9

SOURCES: As for Table 2

The bulk of the nation's crime occurs in the Northern region. This is, of course, to be expected as that region is the largest and the most populous. However, it must be noted that the figures do not include crimes recorded by the native authority police and courts: "No record of statistics in respect of cases dealt by the native courts is kept by the police."¹¹ In view of this, the criminality there must be necessarily much greater. In the thirties, the police observed "the Northern provinces as a whole may be said to have been more law abiding," suggesting the possibility of an increase in criminality in the Northern region. The bulk of the crimes in this area fall into the category "other offences" with theft coming a close second. The proportion of crimes against the person is also high. Lagos has the lowest number of crimes; it, however, cannot be considered the least criminal because it is the smallest territorial unit and the relatively small number of crimes may only be a reflection of its size. Interesting here, however, is that the offences falling into the "other" category predominate while crimes of violence against the person are relatively rare. Offences falling into the "other" category also predominate in the Western region, constituting as it does in Lagos, over half the number of crimes occurring in that area. Crimes of violence against the person, however, are not so rare in the Western region as they are in

Lagos. In Lagos, they constitute only 6.8% of the total, while in West Nigeria, they constitute 17.4%. A totally different picture from that occurring in the other parts exist in Eastern Nigeria. Here the predominant crime is theft, not those falling into the 'other' category and crimes of violence are also a relatively common occurrence constituting 26.5% of the total.

Several explanations have been made for these patterns of crime. The occurrence of crimes against property is attributed to industrial growth and urbanization, and these crimes are supposed to predominate in those areas where such industrial growth and urbanization have occurred. As we have, for instance, in the case of Lagos, crime is especially the problem of the urban community. In the past forty years, the Nigerian population has increased by as many millions and has been substantially redistributed. With the increase in population, there has equally been a simultaneous growth in the traditional urban areas in industry, commerce and governmental administration. With the increase in population and the expansion of urbanization, it is clear that migration from rural areas to cities would result as, in the case of the Ibos. With the gradual exposure to occidental material values, the subsistence economics of village communities have quickly lost their attractions for the inhabitants. And as the towns

continue to expand, they begin, at least temporarily, to assume distinctive demographic features, with few children and few elderly people, in contrast to the high concentration of young adult males. Significantly, this age group is normally recognized as being the most productive of criminal offenders.¹²

The values implicit in urban environment obviously differ from those which predominate in the traditional rural setting. The wage economy and the prescribed status on economic standing and individual achievement, give urban life a frame of reference.¹³ Within it, the fruits of success are clearly marked, more so because of the disparities which exist between the employment, possessions, housing, hotels, clubs and shops of those who are successful and the facilities available to those who are not. As these marks of success have ceased to be the exclusive preserve of the European, the urban Nigerian can see them all the more clearly as ones to which he can legitimately aspire. For recent immigrants, who lack the skills or education to succeed in the urban milieu, or who may fail to adjust to competition of the city, the pressures to attain status and the easy accessibility of goods in shops and private houses may be strong predisposing factors towards delinquency. It may also be attributed to what the Nigerian police noted of Eastern Nigeria in 1961, the increase in crime to "men and boys from the rural areas in search of work...[who], where

none is readily available...turn to stealing to maintain themselves." But the amount of small-scale theft which takes place, apparently across widely separated economic lines, suggests that urban poverty may be a particularly strong precipitant to crime.

It is also not just that the temptations to crime--to economic crime in particular--and the opportunities for committing it are greater. Obviously, they are, for the reasons already given, and because the complexities of modern commercial life make it more susceptible to dishonesty. The very nature and ordering of an urban society requires that there should be a substantial body of municipal rules which cut across traditional cultural standards in the interest of public health, safety and order, and which can be infringed without deliberate malice. These factors obviously influence the crime rate, but at the same time, it must be assumed that the forces which inhibit criminal behaviour in the traditional context are less effective in the urban area. An urban community is by its nature large, complex and impersonal. According to some classic studies in such areas, family stability degenerates and problems of delinquency and mental disorder abound. Certainly, some aspects of urbanization seem to be common to different cultures. It can readily be seen in Nigeria how the pressures of the town and city encourage the

economic individualism--the goal of personal material success. With the mixed group structure that characterizes urban life, cultural heterogeneity will increase reducing the influence of the traditional controls and, as Sellin (1938) commented:

The more complex a culture becomes, the more likely it is that the number of normative groups which affect a person will be large, and the greater is the chance that the norms of these groups will fail to agree, no matter how much they may overlap as a result of common acceptance of certain norms.¹⁴

Such a situation may mean cultural disintegration as Lambo (1965) found out in his study of selected Yoruba villages, that where village cultures had 'disintegrated', children brought up in these cultures were infinitely more likely to become maladjusted or delinquent than those brought up in the more stable 'integrated' cultures. Ninety-two percent of the small group of delinquent children studied were from 'disintegrated' cultures. In a large proportion of the cases, he noted the breakdown of normal family controls--either the father being absent and there being no one else to assume effective control, or the mother being diagnosed as suffering from some psychiatric impairment. The structure of the Nigerian urban environment and development thus break down the primary, cultural, social controls and encourage delinquency.

Crimes of violence against the person can be attributed to the influence of politics. The interaction of the traditional forms of government with those first introduced by the colonial power, and modified by the governments of independent Nigeria, has multiplied the seats of power. Though the formal lines of the systems of law and government are fairly clear, effective power is not always channelled along those lines. The kinship, village, tribal, state and national groups have all at one time or another established competing or complementary authority structures. When effective power does not conform to the boundaries of these structures, or where there is confusion as to the scope or origin of authority at any level, criminal behaviour is inherent in the conflict which arises.

The conflict which is perhaps the easiest to understand is that between the cultural concepts at the basis of much of the formal law and the traditional concepts which they replaced. Unless there is sufficient rapport between the legal system and the society in which it operates, the formal enactment of a new system cannot lead to the abandoning of the old. Only by continued, intensive, police activity and persistent administrative and judicial overview can a change in mores be stimulated. For example, the old practices associated with witchcraft and juju show continued vitality, although they

were legally prohibited at the beginning of the century. It is not uncommon today in Nigeria to receive reports of the trial by ordeal of suspected witches or of the flourishing commercial operation of shrines and oracles. Gifts and sacrifices--even human sacrifices as the 1965 Investigation of the "Owegbe" cult suggested--may well be as much a part of the life of many communities today as they were fifty years ago.

These conflicts have continued to produce public disorder and in addition, political 'incidents'--the celebrated Aba riots of 1929, through the long history of disturbance in the Tiv Division, to the Western political disorders of 1958, 1962, 1965, the electoral crisis at the end of 1964, the 1966 coups and the subsequent bitter war--these also form figures on crime sheets and can all too easily be translated into the criminal categories of murder, grievous harm, assault, malicious damage, arson and the like. However, such conflicts did not always produce criminal activity. In this connection, a particularly accusing finger is pointed at Western Nigeria where the carving out of a new region from it--the Mid-western region--is supposed to have increased criminal activity. Benin, the Capital of the Mid-western region, has been the seat of traditional authority outside the North. The carving out of the Mid-West region from the Western region supposedly brought this

traditional authority into collision with an extending and intruding federal authority.

When rates per 100 000 population rather than total number of crimes are considered, the crime picture in Nigeria becomes entirely different. Table 6 shows the annual average crime rates by type of offence during the period 1960-64 for the different regions. Lagos, which had the least amount of crime, has the highest rate with a total of 3504.2. Lagos has an overall crime rate which is almost fourteen times the national rate of 262.6, while Northern Nigeria, which had the most amount of crime, has the lowest rate of 175.7. As far as the individual categories are concerned, the rates for Lagos are far greater than those for the other parts of the country. Crimes of violence against the person, which were relatively few, yield a rate of 240.9--three times as great as the next highest rate in Eastern Nigeria. The rates for property crimes and for crimes falling into the 'other' category are also very high. The rates for all categories are relatively low in the Northern area.

According to a note added to a comparative crime table in the 1947 Police Annual Report, there were no statistics of juvenile offences recorded before 1945. When juvenile offences were recorded, they were recorded with the juvenile category as (a) Junior (under 14 years of age), and

TABLE 6 - ANNUAL AVERAGE CRIME RATES BY TYPE OF OFFENCE 1960-64.
 RATES PER 100,000 POPULATION

Jurisdiction	No Offences	Person	Fraud	Breaking	Theft	Other	Totals
Lagos	116,517	240.9	35.4	189.3	1130.0	1908.6	3504.2
N. Nigeria	260,429	40.1	2.7	10.9	55.3	66.7	175.7
E. Nigeria	189,191	81.0	4.2	32.7	109.7	77.7	305.3
W/M-W Nigeria	177,209	49.6	3.0	24.4	57.6	142.3	276.9
Nigeria	743,346	53.7	3.5	20.9	80.8	110.3	262.6

SOURCES: As for Table 2

(b) Senior (over 14 years and under 17 years of age). In 1945, 586 cases of juvenile delinquency committed by the juniors were reported to the police and property to the value of £527.9s.9½d was reported stolen by them.¹⁵ In the same year, 595 cases were reported to the police as perpetrated by seniors involving property to the value of £917.10s.7½d.

This focus on juveniles resulted from a report made in 1944 by Patterson to His Excellency the Governor of Nigeria on crime and its treatment in the Colony and protectorate.¹⁶ In that report, he noted that there was a serious increase in juvenile crime and that that trend would grow unless measures were taken to cope with the townward migration of young people. The figures Patterson reached on, presented in Table 7, do not however justify this conclusion. The report is silent on the question of delinquent acts dealt with by local authorities but it would be reasonable to assume that these juvenile cases are not included in these figures. Most of the offences committed by the juveniles, both junior and senior, are offences against property and consist mainly of petty thefts. Also constituting a large part of delinquent offences are offences against local ordinances like sleeping in the marketplaces or trading without proper licences.

TABLE 7: OFFENCES BY JUVENILES REPORTED
TO POLICE 1961-64

Age-Group	1961	1962	1963	1964
Seniors	1,263	1,566	1,458	1,477
Juniors	1,883	2,028	2,513	1,635
Totals	3,146	3,594	3,971	3,112

SOURCE: Annual Reports of the Nigerian Police Force, 1955-64.

Little emerges from the breakdown of these figures into categories of crime and regional distribution. Like the adult crime returns, the Nigerian police returns give no information about the sex of offenders and one assumes that female crime is of an insignificant amount. The only inadequate guide to such adult male/female proportions are the prison sentences figures, which show an imprisonment ratio of five men to every one woman.¹⁶ Available information suggests that female crime mostly involves petty offences such as prostitution, unlawful street trading and minor thefts.

FOOTNOTES

¹Lambo (1965) The Mental Health Approach to the Problem of Juvenile Delinquency in Developing Countries. U.N. DOC. A/CONF. 26/L.3, pp.19-20; Lambo and Leighton (1963) Psychiatric Disorder Among the Yorubas. Ibadan: African Universities Press, pp.229-238.

²Chambliss, W.J. & Mankoff, W.J. (1976) Whose Law What Order: A Conflict Approach to Criminology. New York: John Wiley and Sons Inc., p.18.

³*Ibid.*, p.19

⁴Sellin, T. (1938) Culture Conflict and Crime. New York: Social Sciences Research Council.

⁵Nigeria Police Annual Report, 1922, p.10.

⁶*Ibid.*

⁷Sagi, P. and Wellford, C. (1975) Age Composition and Patterns of Change in Criminal Statistics. Journal of Criminal Law and Criminology, 59, pp.29-36. See also Ferdinand, T. (1970) On the Increase in Recorded Crime. British Journal of Criminology, 20, pp.431-440; Wellford, C. (1973) Age Composition and the Increase in Recorded Crime. Criminology, 18, pp.61-71.

⁸Nigeria Police Force Annual Report (1964), p.8.

⁹Federation of Nigeria Annual Reports of the Nigeria Police Force (1961), p.12.

¹⁰Federal Republic of Nigeria Annual Report, Federal Ministry of Labour and Social Welfare Division (1965), pp.15-16.

¹¹Annual Report of the Nigeria Police Department (1939), p.15.

¹²This age group also accounts for the high rate of prostitution commonly found in West African urban areas revealed in Little (1959) (Some Urban Patterns of Marriage and Domesticity in West Africa. Sociology Review, 7, pp.75-76, 80-81.

¹³There are many literatures on this phenomenon, for example Sutherland and Cressey (1960) Principles of Criminology. 6th Edition, p.154; Seqi Urbanization and Crime and Delinquency in Asia and the Far East, in Urbanization in Asia and the Far East (1956) UNESCO DOC. SS.57, V.7.A.; Panakel and Khalifa (1960) The Prevention of Types of Criminality Resulting from Social Changes and Accompanying Economic Development in Less Developed Countries. U.N. DOC. A/CONF. 17/3; Clifford, W. (1960) Crime in Northern Rhodesia. Nairobi: Oxford University Press.

¹⁴Sellin (1938) Culture Conflict and Crime. New York: Social Science Research Council, pp.29-30.

¹⁵Nigeria Police Annual Report (1945), p.5.

¹⁶Report to His Excellency the Governor of Nigeria on Crime and its Treatment. Colony and Protectorate, para.2.

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4. Ferdinand, T. (1970) On the Increase in Recorded Crime. British Journal of Criminology, 20, pp.431-440.
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14. Sellin, T. (1938) Culture Conflict and Crime. New York: Social Science Research Council.
15. Sutherland, E.H., Cressey, D.R. (1960) Principles of Criminology. Philadelphia: J.P. Lippincott Co.
16. Wellford, C. (1973) Age Composition and the Increase in Recorded Crime. Criminology, 18, pp.61-71.

CHAPTER VI

THE CULTURE CONFLICT INTERPRETATION OF CRIME IN NIGERIA AND DISCUSSION

The theory of culture conflict can be conceptualized in the simple terms of a conflict between the way an individual behaves and the way that the politically dominant group wants him to behave. In this conceptualization, there is an assumption:

- (a) that the behaviour of an individual or a group of people in society can be interpreted in terms of shared value system--the societal or group value system;
- (b) that the legal value system--the value system of the political dominant group euphemistically epitomized as the value system of society represents the form of behaviour to which individuals in society are expected to conform;
- (c) that there exists in society a variety of value systems which an individual can learn, internalize and according to the dictates of which he could behave;
- (d) that crime is an expression of the difference that exists between the value system that the individual has internalized and the legal value system.

Thorsten Sellin (1938) conceived culture conflict as a normative conflict--a conflict in the power exercised by the various value systems to dictate norms of conduct, to induce conformity to it. The conflict produced in the individual is a mental state which failed to force him to conform to the dictates of the legal value system.¹ The failure may have been due to early socialization which demanded conformity to an antithetical code. It may be due to the situational configuration which depreciated the importance of a particular code; or it may be due to the existence of a number of codes without any indication as to which should take precedence. In these terms, culture conflict could exist when the laws of one country was extended to cover the territory of another, when people from one country or from one area migrated to another country or another area, or among people living in boundary areas where contrasting and conflicting value systems existed cheek by jowl. It did not, however, exclude the possibility of culture conflict existing in a seemingly homogeneous society where ranging social and economic conditions alter perceptions of the propriety of particular codes of behaviour.

This conceptualization of culture conflict tends to deposit the criminogenic conflict in the offender, in the non-conforming actor. However, the work of Ribordy (1975) with the Italians of Montreal,² as well as the work of Jayewardene

(1975) with the Eskimos³ and the Indians,⁴ reveal the existence of an entirely different mechanism through which culture conflict could operate. Instead of producing a mental state in the offender, forcing him to behave in a socially disapproved manner, it could produce a mental state in law enforcement officers forcing them to interpret the normal behaviour of particular groups or individuals as criminal. Culture conflict, therefore, holds that criminality is an expression of disjuncture between the way an individual believes he should behave and the way society through its body politic commands he should, with the possibility of the disjuncture coming from a misinterpretation of a socially demanded or socially expected reaction to a situation on the part of the actor, as well as from a misinterpretation of the reaction of the actor on the part of an observer. The misinterpretation in both cases, it could perhaps be contended, is influenced by social, economic and cultural conditions which expose individuals to series of complexities without clear and firm indications as to what is the desirable in terms of personal expectations and satisfactions, and of social expectations and satisfactions. All in all, the theory of culture conflict hypothesises crime to be the natural concomitant of diversity, of ethnic diversity and cultural diversity, of moral diversity and religious diversity, of ethical diversity and legal diversity, of social diversity and economic diversity.

Using historic-social analysis, an attempt has been made to study the extant conditions in Nigeria to determine whether the conditions that promoted culture conflict exists therein. In this connection, it was found that Nigeria, as it exists today, can be considered the result of three distinct sets of social processes acting and reacting with each other to produce the criminogenic diversity that the theory of culture conflict postulates. The first of these processes comprise the creation of the country through the arbitrary consideration of contiguous areas of land as a single and distinct political unit without any consideration for the social, economic, cultural, religious, and ethnic characteristics of the people who inhabited those areas. Brought together as a single unit were a number of groups of people each with their own peculiar ethnic origin, their own peculiar culture, their own peculiar way of life and their own peculiar system of government. So distinct and diverse were the groups that, after a number of years of experimentation in government, the integrity of the new nation was thought capable of preservation only through the recognition of the diversity and the institution of a federal system of government. The second set of processes comprised the attempt by the British colonizers to maintain the cultural integrity of the groups and at the same time to effect what they thought was their sacred duty of slowly but surely leading the 'primitives' to the higher levels of civilization. Towards this end,

both consciously and unconsciously, a new cultural element was introduced into each area to complement and to compete with existing ones. Most conspicuous in the introduction was a system of laws and of justice made, not to replace the indigenous, but to co-exist with it, so much so that in every part of the country there was at least minimally a dual legal and justice system--the British Common Law System and the indigenous customary system--to operate side by side with no clearly defined jurisdictions, with no clearly recognized authority to interpret the law, and with no clear indication as to which law would be used to evaluate behaviour. In addition to this, there was a system of internal migration promoted by a British instituted country-wide transferable civil service system which caused further cultural diversity in the different areas and introduced into each of these areas a number of other legal systems without any alteration in the existing jurisdictional confusion. The third set of processes comprised the social, economic and cultural changes that accompany urbanization and industrialization.

The existence of the diversity that the theory of culture conflict hypothesis is criminogenic does not necessarily mean that crime is rife in Nigeria. Evaluating the crime picture in the country constituted the next task. For this, a prerequisite is the existence of reliable statistical data over

a relatively long period of time. Nigerian criminal statistics is subject to all the deficiencies of the criminal statistics of all other countries (Chambliss, 1969).⁵ Thus, their use in scientific research tends to be questionable. When crime is looked upon as the commission of an outlawed act, the accuracy of the picture demands the enumeration of every single one of those acts. However, if crime is seen as the consequence of the interpretation of an act as criminal, in terms of a predetermined definition albeit, the statistics collected by the police become pregnant with meaning in culture conflict terms (Jayewardene, 1960).⁶ Official police statistics do not give us a count of all committed acts that could be considered crime. They give us a count of all committed acts that are so considered--all those acts that have been interpreted as criminal both by the public to induce them to report them to the police, and by the police to record them as such. The police statistics give us a count of acts that are not just theoretically considered undesirable, but are actually considered so. For this reason, the use of police statistics, with all its deficiencies, was felt justifiable in the analysis of the crime picture in Nigeria.

The theory of the culture conflict hypothesis is not only a proliferation of crime in general terms under the criminogenic diversity, but also gives an indication of the type of crime

that is proliferated and the people who are responsible for the proliferation. The greater the conflict, the greater would be the criminality, is one of the derivable hypothesis. This is applicable not only on a temporal basis but on a spatial one as well.

In more specific terms, it could perhaps be hypothesized that there has been an increase in crime with the passage of time. This hypothesis is predicated by the assumption that there has been a steady increase in culture conflict--an assumption that is justified by the historic-social analysis of the conditions in Nigeria as well as by the analysis of the development of the law in Nigeria. In addition to this, it could also be hypothesized that the incidence of crime is greatest in those areas where the culture conflict is greatest --in those areas where the cultural heterogeneity and the cultural diversity is greatest. Thus, as far as Nigeria is concerned, we would expect the incidence of crime to be low in those areas such as the Hausas in the Northern provinces which are almost exclusively occupied by one ethnic group, and the incidence to be high in those areas such as the Western and the Eastern provinces which are inhabited by a number of ethnic groups:

As far as the different ethnic groups are concerned, it would perhaps be reasonable to expect, in terms of the theory

of culture conflict, that the criminality would be maximal among those groups where the conflict is maximally felt and minimal among those groups where the conflict is minimal. Thus, it could be hypothesized that the incidence of crime would be high among these groups whose culture is rigid, demanding a resistance to change, and would be low among those groups whose culture is flexible and permits adaptation and adjustment. Studying the influence of cultural change on crime in Ceylon, Jayewardene (1969)⁷ has shown that criminality is unaffected by change only in those communities where the change is accepted as a natural phenomenon, deemed neither desirable or undesirable. When the change is considered desirable and promoted as well as when it is considered undesirable and resisted, the change does produce an increase in crime with, however, the difference that in the former instance, where the change is considered desirable and promoted, the increase is in crime against property, while in the latter instance, where the change is considered undesirable and resisted, the increase is in crimes against the person. It could therefore, perhaps, be hypothesized that the preponderant crime among the Hausas, whose culture promotes resistance to change, would be crimes against the person, while the preponderant crime among the Ibos, whose culture encourages change, would be crimes against property. It is in these terms that the crime picture of Nigeria has to be studied.

With regard to the first hypothesis of a proliferation of crime over time, the data indicates that this is not so. During the period 1961-64, the period for which statistical information is available (Table 2), the crime rate actually went down--the crime rate in 1956 was 482.8 per 100 000; in 1964 it was only 287.3. The total number of offences known to the police also did not increase (Table 3). In 1956, the total number was 159 235 and in 1964 it was 158 043. The only year in which the 1956 number was exceeded was in 1957, in other years, the number was far less.

Police chiefs, in the annual administration reports, have claimed that crime was not only rife in Nigeria but that it was on the increase. These contentions are impressionistic ones which do not have any support in the figures that their reports provide. Perhaps their impressions provide a more accurate picture, but nevertheless, we must conclude on the basis of statistical data available that the culture conflict hypothesis is not supported in this respect. It could, however, be claimed that the failure of the data to support the culture conflict theory stems from the fact that the data itself is inaccurate. However, without knowing what the accurate figures are, it is not possible to claim that the situation would have been otherwise.

The second hypothesis postulates that crime will be greatest in those areas where culture conflict is greatest. The Northern area, which is inhabited mainly by the Hausas, has remained unique with less cultural contact and is the area in which the least amount of culture conflict could be considered to have occurred. In the Southeastern area, which was inhabited mainly by the Ibos, as well as the Southwestern region inhabited mainly by the Yorubas, the British have been able to exert their influence maximally. However, because of the nature of both the people and the territory they occupied, the Ibos appear to have more readily accepted the British style of life. In consequence, it would perhaps be possible to claim that culture conflict would be more intense in the Southwestern region than in the Southeastern region. Lagos, though occupied mainly by Yorubas, has been made the seat of British administration, and has become a more or less cosmopolitan area. This could in consequence be considered the area where culture conflict is greatest. In terms of the second hypothesis, we would therefore expect the incidence of crime to be greatest in Lagos and least in the Northern area, with the Southwestern and Southeastern areas coming in between and in that order. The official statistics show that when the actual number of offences are considered (Table 4), Northern Nigeria accounts for the most (35.0%) while Lagos accounts

for the least (15.6%) and Western Nigeria has less crime (23.8%) than Eastern Nigeria (25.4%). This distribution of the total number of crimes does not take the population distribution into account. When the crime rate (per 100 000 population in the area) is considered, the picture is reversed. Lagos has the highest crime rate (3504.2) and Northern Nigeria the least (175.7). However, Eastern Nigeria has a higher rate (305.3) than Western Nigeria. As far as this hypothesis is considered, it could be said that it is only partially supported.

The third hypothesis postulates a low incidence of crime among people who accept change and a high incidence among those who push or resist change with crimes against property preponderating in the former case, and crimes against the person preponderating in the latter case. Applied to the Nigerian situation, our expectation would be for crimes against property to be greatest among the Ibos, and crimes against the person to be greatest among the Hausas. The rates for the different crimes (Table 6) does not support this hypothesis. The rate for crimes against the person is highest among the Ibos and lowest among the Hausas. This is also the situation with regards to crimes against property. Here too the culture conflict thesis is not supported.

Sellin's analysis of culture conflict saw the criminogenic conflict as a mental element--a mental conflict arising within the individual, internal to the individual, and preventing the individual from always engaging in behaviour that conforms to the law. Of course, this internal conflict had its roots in an external situation in which different codes of behaviour presented themselves to the individual as the code by which he should fashion his behaviour. In this test of the culture conflict hypothesis, we have made an assumption that the existence of the external conditions was sufficient to promote the internal conflict--an assumption that is implicit in Sellin's statement of his theory. The failure of the Nigerian situation to provide supportive evidence for the theory of culture conflict, could perhaps be due to the fact that the translation of the external conditions into an internal conflict requires the intervention of a variable that has not been considered. In this connection, Schweister's observation regarding African criminality, appears pertinent. He point out that

The primitive is good by every standard as long as he is in his village and under the influence of his family and parents. But removed from his milieu, he loses all principles of morality.⁸

Perhaps the presence of other members of his tribe prevents the development of the criminogenic internal conflict. The inordinately high crime rate in Lagos--more or less cosmopolitan--and the relatively low rates in the other areas inhabited predominantly by one tribe, lends support to this supposition.

A second possible explanation lies in the fact that what has been used in this study are police statistics. Our justification for their use is that they indicate the behaviour that is not tolerated by the public and the police stressing more the aspect of crime that involves the spectator interpretation of an act, rather than that which involves the actor's perpetration of it. There is the possibility that, in the milieu of their own tribe, the interpretation of deviance and the involvement of what may be considered an alien agent, is a behaviour that is more reprehensible than the criminal behaviour itself. Hence, it may be that while criminal behaviour is rife, it is only rarely interpreted as such by the public who constitute members of the same tribe. Perhaps in the Nigerian situation, those internal conflicts created by external conditions were not translated into delinquent behaviour.

FOOTNOTES

¹Sellin, T. (1938) Culture Conflict and Crime. New York: Social Science Research Council.

²Ribordy, F. (1971). Conflit de culture et criminalité des migrants italiens. Canadian Journal of Criminology and Corrections, 131, pp.24-42.

³Jayewardene, C.H.S. (1975) Violence among the Eskimos. Canadian Journal of Criminology and Corrections, 17, pp.307-314.

⁴Jayewardene, C.H.S. (1972) Crime and Society in Churchill. Ottawa: University of Ottawa Center of Criminology.

⁵Chambliss, W.J., Nagasawa, R.H. (1969) On the Validity of Official Statistics: A Comparative Study of White, Black and Japanese High School Boys. Journal of Research in Crime and Delinquency, 6, (1), pp.71-78.

⁶Chambliss, W.J. (1969) Crime and the Legal Process. New York: McGraw Hill.

⁷Jayewardene, C.H.S. (1960) Criminal Homicide: A Study in Culture Conflict. Pennsylvania: University of Pennsylvania Ph.D. Dissertation.

⁸Jayewardene, C.H.S. (1965) Criminogenic Areas. Probation and Child Care Journal 4:1, pp.31-38.

⁹Schweister, A. (1929) A l'orée de la forêt vierge, récits et réflexions d'un médecin en Afrique équatoriale française. Paris: Rieder.

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