

SHORTCOMINGS OF THE WESTMINSTER SYSTEM

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Born in New South Wales, Mr. Gyorffy moved to Victoria with his parents at an early age. After completing his schooling in Melbourne, he started his legal studies at Australian National University, but family circumstances dictated that he should complete his degree at the University of Melbourne. Later, he completed his studies for his Masters Degree at Monash University. He was admitted to practise as a solicitor in 1977 and went to the Bar in 1979. In June 1984 he entered the Attorney-General's Department in Victoria as Associate Director of the Minister's Policy Unit working on Criminal Law. Later he was the Director of Research for the Starke Committee on Sentencing and for many years he has been the Attorney-

General's representative on the Committee on Police Powers. Of recent times, he has become a prosecutor for the Queen in Victoria.

He is married with one daughter, a recent arrival.

In this paper, presented to the AGPC Conference in July, 1989, Mr Gyorffy argues that the accountability of politicians, and especially ministers, to the general electorate is a significant weakness in the battle to reduce the incidence of crime. He argues for the establishment of a Crime Prevention Commission empowered to investigate the operation of all aspects of the criminal justice system with a view to determining whether the public receives value for money spent in crime-prevention strategies.

1. INTRODUCTION

Recently, an ABC reporter when discussing the Constitutional crisis in Tasmania made the comment: "There are only two rules in politics. The first is to get elected. The second is to stay elected".

Walter Lippmann in his 1955 work, *The Public Philosophy* was even more brutal in his condemnation of politics and politicians. He said:

"Successful democratic politicians are insecure and intimidated men. They advance politically only as they placate, appease, bribe, seduce, bamboozle, or otherwise manage to manipulate the demanding and threatening in their constituencies."

To make this quote contemporary we need only include women among politicians.

In examining the thoughts contained in these passages it would be easy to dismiss them as the ravings of cynics, but as fortune would have it, in the course of preparing this paper I came across a glaring example of these principles in operation which adds credence to those thoughts. In the Melbourne "Age" on 8 May, 1989 the following article appeared under the heading, "Public pressure forces NZ to act against violent crime":

"The New Zealand Government has announced new measures designed to put violent criminals behind bars for longer terms and to curb growing gang violence.

The Justice Minister, Mr. Geoffrey Palmer, along with most penologists does not believe that tougher penalties reduce violence. But he says that the Government has to heed the public demand for strong action..."

Could you think of a more clear example of an intimidated politician placating, appeasing, seducing or bamboozling "the demanding and threatening" in his electorate?

To my mind what these matters illustrate is that the greatest strength of the Westminster System — the accountability of politicians and in particular Ministers to the general electorate, is at the present time its greatest weakness when it comes to crime prevention.

I do not suggest that a system of democratic government modelled on the Westminster System is incapable of successfully preventing crime in our community, but I do say that as the system is presently structured the ballot box is incapable of effecting crime prevention. This is so because the concern of politicians is to obtain an apparent "quick fix" within the attention span of the media to each crisis thrown up by it.

The sad fact, however, is that there are no "quick fixes" to the problems of crime and invariably such "quick fixes" as are regularly adopted by politicians — longer jail sentences, more police, more police powers and more judges are merely placebos to bamboozle electors.

Before you all rush out and buy sub-machine guns, savagely trained guard dogs and turn your houses into fortresses to fight the waves of criminals you are now expecting to invade your life, can I just say that I believe there is a way of rejuvenating the Westminster

System of government to ensure that effective crime prevention occurs. What is required is a means of making politicians accountable to voters for their crime prevention policies and it is that means which is the subject of this paper.

2. WHY ISN'T CRIME PREVENTION EFFECTIVE UNDER THE WESTMINSTER SYSTEM?

Many reasons can be advanced to explain why the Westminster System is not effective in crime prevention. I wish to concentrate on the one that I believe is the major problem.

The fundamental defect in the Westminster System so far as crime prevention is concerned is a lack of information about the effects of policies adopted by the Government. Once a Government adopts a policy and puts it into effect, there is no means of determining whether the purpose for which it was put into effect has been achieved. This is so because often the purpose involved in a programme or legislation is not specified in a clear way. In other words, the programme is given a broad aim of preventing crime, without indicating goals to be achieved along the way in doing so, without indicating how the effectiveness of it is to be measured, and without setting standards by which value for money questions can be assessed.

The second factor giving rise to the problems is that there is no process for assessing whether or not the programme has been effective. By this I mean that there is nobody reporting to Parliament or to voters or the public at large to tell them whether the steps taken by the Government have or have not worked. There is, therefore, a lack of information to the electorate about the crime prevention performance of the Government concerned.

These problems are amplified by a number of other factors. First, Government response tends to be orchestrated by media attention to isolated concrete incidents which have a limited time span of interest. Second, as can be seen from the range of papers being delivered at this conference, crime prevention is a complex matter which requires a great deal of careful analysis and planning.

Third, there is a great deal of public ignorance about the complexities of crime prevention, and as a result simplistic solutions such as getting tough on crime are seen as adequate responses even though the overwhelming message from the research that has been done by criminologists so far is that this is not so. In other words, the public, parliamentarians, and the media are not aware of the complexities of crime prevention and therefore are not aware of the effectiveness or otherwise of policy measures taken by the Government. Fourth, Government Ministers have enough problems to deal with without raising their own, and they tend to respond to issues raised by either the media or the Opposition. If the media or Opposition are unaware of the fact that the programmes adopted are ineffective, the issues are simply not raised.

I would suggest, therefore, that in order for the Westminster System to operate effectively in developing crime prevention policies, it is necessary that there be a mechanism by which the key players in this system are informed of the effectiveness or otherwise

of various strategies adopted by the Government of the day. I would suggest that what is required is an independent body with a charter to examine crime prevention policies adopted by the Government, to report to Parliament on those policies and to ensure that the public is properly educated on crime prevention matters.

The form that that Body should take, its powers, and its scope of operation form the rest of this Paper. For want of a better title I will refer to that Body as the "Crime Prevention Commission".

3. THE CRIME PREVENTION COMMISSION

What should its jurisdiction be?

The Commission should be empowered to investigate the operation of all criminal legislation, all Government agencies involved in crime prevention, criminal law enforcement, the administration of the Courts (though not the decisions made), and any proposed crime prevention policies developed by Government agencies or bodies. What the Commission should do is determine whether the public is receiving value for money in relation to what it spends on crime prevention programmes and policies.

In practice this will mean that some standards need to be set which define the objectives of relevant policies and relevant enforcement agencies so that there is a means of measuring performance.

The Commission should, in consultation with the relevant bodies, determine what those objectives and priorities are and articulate them.

If agreement cannot be reached on the relevant criteria, then the Commission should articulate what it believes to be the appropriate criteria.

The Commission then should have the access to all relevant records and people involved with agencies and programmes to determine whether or not the objectives are being met.

Its power of access to such material should be unlimited, though, in appropriate cases, confidentiality provisions may be appropriate. The broad jurisdiction of the Commission would therefore be to enquire into the effectiveness of crime prevention programmes and to determine the efficiency or otherwise of bodies delivering them.

Who should be on it?

It is imperative that the Crime Prevention Commission be untouchable. The people on the Commission should be totally independent, and as far as practicable, be incapable of being swayed by political intervention.

The Commission should be headed by a Judge. In addition to the Judge there should be two other members. One with accounting and financial expertise, and the other who is a representative of the community with relevant background and expertise.

These people should have the overall control of the Commission, set its directions and be responsible for its reports. Adequate resources should be provided to them to carry out their functions.

What resources should the Commission have?

The major resources that the Commission should have are skilled investigators in appropriate areas. The skills required would range over such matters as an understanding of the legal process, an understanding of the criminal investigation process, an understanding of social welfare issues, an understanding of health issues, education issues, planning issues and a wide range of other matters.

The Commission would also need to have staff to gather together relevant research material and data. Further, it may need researchers of its own or the ability to commission research in relevant areas, particularly such matters as determining public perceptions of crime, the relevant objectives of various programmes, and the means of measuring effectiveness of criminal justice programmes.

There would also be the normal range of support staff appropriate to such an organisation.

What powers should the Commission have?

First, it will need the necessary powers to ensure it obtains all relevant materials on which to assess the effectiveness of crime prevention programmes and agencies involved in that area.

This may also mean the ability to compel key officers of

Government to attend and be examined by the Commissioners where appropriate. This power in my view should extend to relevant Ministers also.

It would need the power to hold public meetings so that general members of the community can express their views about various matters relevant to crime prevention. This may also result in a great deal of information which has previously been unavailable becoming available.

With any such body, there no doubt will be pressures on the allocation of its own resources, and therefore it would require the power to determine which matters it will enquire into. It may also be desirable that Parliament have the opportunity to refer certain matters to it for investigation where, for example, there was a particular public importance attaching to the matter.

Finally, the Commission should be required to report to Parliament at least once a year on relevant crime prevention matters, and should have the power to report more often if it considers it desirable to do so. The power might also extend to reporting on specific programmes and issues, again, if desirable. The reports of the Commission ought to be public and available to the media and any person who wishes to have copies of them.

In broad terms the duty of the Commission would be to inform Parliament and the public of the effectiveness or otherwise of the crime prevention programmes. In this way the Commission does not usurp the function of Parliament to develop policy, and other bodies in the political process to do so, but it merely informs the relevant arms of Government and the public whether or not the steps taken are worthwhile.

4. WHAT WILL THIS ACHIEVE?

The purpose of these reforms would be to eliminate the inertia currently within the Westminster System so far as crime prevention is concerned. The presentation of reports by the Crime Prevention Commission, the publication of those reports and the debate that they cause, ought to result in a more thinking approach to crime prevention at Government level.

Ultimately what the process should result in is Government clearly articulating and setting out the objectives that the policies are meant to achieve, and a process by which it can be determined whether those objectives have been achieved or not. This in turn would hopefully eliminate the "quick fix" solutions which amount to nothing more than placebos within the system. By increasing public awareness through harnessing the media, it would be hoped that politicians would become more accountable to voters in relation to their crime prevention policies.

One would also hope that this process would result in a more integrated approach to crime prevention incorporating all of those elements that have been considered at this conference.

It may lead to greater co-operation between Ministers and to a higher priority of crime prevention issues as opposed to mere law and order campaigning.

Such a process of informed debate may also diminish the power of vocal minority lobby groups to affect crime prevention policies.

5. CONCLUSION

The Westminster System of Parliamentary Government as presently established in many jurisdictions is not an effective means of crime prevention because of various shortcomings that have been discussed in this Paper. In order to make it an effective means of crime prevention, it is necessary to make politicians more accountable to voters for their crime prevention policies. This can only be achieved if voters become more literate about crime prevention matters, and what is needed is an independent watchdog preparing public statements on crime prevention policies and determining the effectiveness of Government and Government agencies in their crime prevention strategies. An independent Crime prevention Commission with a charter to determine what objectives various crime prevention programmes have and whether or not they achieve them would make our system a far more efficient means of developing crime prevention policy. Indeed I would go so far as to say that our political system will not effectively prevent crime unless such a body is set up.