

CONSCIENCE ET CONNAISSANCE DU DROIT

CONSCIOUSNESS AND KNOWLEDGE OF LAW

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Abstract

"The intelligent man is his own doctor". This precept from Socrates has not been retracted by modern medicine: the intelligent man is capable of distinguishing what will be most suitable for him from what will be most harmful, and therefore able to live.

It is also advisable that the intelligent man become his own lawyer; for in order to fully appreciate one's rights and obligations, one must know the law; however, as Me Floriot states, intelligence alone will not suffice, one must be informed.

It seems basic to know of the existence of a law. In other words, acquiring a legal consciousness should precede a formal knowledge and that this task should be relegated to the school, for there, everything else but law is taught.

Whether it be in the elementary schools, in the high schools, at college, in the universities or in institutions of higher education, everything but law is taught in the schools. We seem to think that the law faculties hold an absolute monopoly in that respect, which actually in our society, seems somewhat anachronistic. (Floriot, 1973).

Within this perspective, with this research, we hope to evaluate consciousness and knowledge of the law at all educational levels: elementary, secondary, collegial and adult extension programs. Our aim is to introduce a cumulative program for the teaching of law and to prepare pedagogical material adapted to students at various levels of development.

The teaching of law within the schools should be obligatory for it is inconceivable that the public be so defenceless before even the most simple legal problems that it does not know its rights and responsibilities and lets these rights slip completely into the hands of the specialists: police officers, lawyers, and judges. By providing the general public with a basic knowledge of rights a great number of blunders will be prevented, we will also greatly contribute to the prevention of delinquency and criminality arising out of ignorance of legal matters.

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1.

Introduction

Section 9 of the Criminal Code states: "Ignorance of the law by a person who commits an offence is not an excuse for committing that offence." Rare are those individuals who can claim knowledge of the law. The Law Reform Commission of Canada (1974-75), in its last report, demonstrated the necessity of returning the mastery of the law, which it has allowed to fall into the hands of experts who have made it their monopoly, to the people. In his article, "Making the Law available to the People" Friedland (1974) proposes a program of public education in the law: if the number of lawyers was sufficient, the public would be able to consult these specialists; other techniques such as the use of pamphlets, books, films, televised programs, etc., would supplement this program of mass consultation. But to the present, these experiments have produced but meager success in the dissemination of the law.

For this purpose, law clinics might appear as the ultimate solution, within information centers with improved, recodified laws. To my mind, this is a movement toward excessive emphasis on the knowledge of the law which leads us astray for it continues to box in the science of the law making it a subject for the experts and not for those for

those for whom the law was laid down. In order that the law becomes an instrument accessible to all, it is necessary that the population be made aware of the existence of the law. Consciousness of the law must precede knowledge of the law and it is only through the school, from the first grade, that it will be possible to instill in the children that legal consciousness fundamental in acquiring knowledge of the law.

In this view, the teaching of the law in the schools should be done by lay persons and not by the experts; police officers and lawyers, are not teachers. Its teaching need not be any more specific than that of mathematics or geography. The image of the law as an instrument of experts would be removed.

Every citizen should possess a consciousness of the law. Studies have shown ignorance of the law as a characteristic of delinquents and incarcerated criminals. Therefore, because of a lack of legal understanding on the part of the "ordinary man", the law remains the monopoly of a minority frequently used for personal gain. Studies on labelling of juvenile delinquents do indeed reveal a differential selection in the process of arrest and incarceration within the judicial system revealing the law as a class concern, where the wealthy, the edu-

cated, the members of the upper strata are labelled as delinquents less often than are members of the lower class. Canadian and American research commissions, criminology societies, the law associations, for more than a decade, have sought to lay bare this class justice, where as one may use an analogy inverse to that of fishing: the big fish slip through the net, while the small fry remains, caught. Again, at the Quebec Criminology Society Conference in Montreal in 1973, Dean Bellemare openly declared that even the worst criminal, if defended by an excellent lawyer, walks out of court, scot free.

Therefore, in seeking to prevent the labelling of delinquency, the young must be given the tools to defend themselves; this can be done by a systematic and cumulative teaching of the comprehension of the law. Far from wanting to make little lawyers of them, we seek, on one hand, to inculcate some awareness that the law does exist and on the other hand, to make them familiar with legal terms, its logic, and processes.

This project has as its goal the measurement at every school level, whether it be primary, secondary, community college, university or adult extension, the consciousness and knowledge of the law held by the students of the city of Sudbury, in order to gain an empirical

base to establish a law curriculum, which would start in the first grade.

This study is a first step, which I hope to follow with the elaboration of teaching methods and tools for a multidisciplinary team of teachers, lawyers, psychologists, and sociologists. I do not wish to repeat the error of the traditional civics courses which were based solely on formal knowledge.

This research fits into the framework of the K.O.L. (Knowledge and Opinion about law) studies, conducted in Europe by an international research group of the Sociology of Law section of the International Society of Sociology. Although this group has done many studies of the knowledge of the law of the general public, they have never been interested in the school population or the teaching of law. This study would be the first, in Europe as well as in North America, to focus the entire school population (Tomeo, in Italy, is studying the sense of justice of secondary school students between the ages of twelve and fourteen years). Unlike so many other studies that base their goal on lofty theoretics, our study has as its purpose a concrete aim, to teach.

Definition of consciousness and knowledge of law

The adherence to a law does not necessarily imply knowledge of that law or an acceptance of the law; adherence may be due simply to the acceptance of a social norm which coincides with the law. Also, knowledge of what is obligatory and what is prohibited does not imply that one has read that law or that one knows that the law exists. It is, therefore, necessary to distinguish two types of knowledge.

A concept is required to convey the notion of having the knowledge that a certain law exists to regulate a certain sphere of our behavior. This type of knowledge will be called "consciousness of the law". "Consciousness of the law" is limited to answering yes or no or "I don't know" to questions such as "Is such and such an act prohibited by the criminal code?" or "Would you be punished for having done this or that?"

The second concept relative to knowledge of the law refers to the quantity of information a person may have about the content of a certain normative regulation. "What is important is the knowledge the person has of the

precise way one's behavior may be controlled." This type of knowledge will be called "knowledge of the law".

Many legislators and philosophers of law seem to believe that once a law is passed in Parliament, consciousness and knowledge of the law necessarily arise in the minds of the public. Although we do not need research to prove this supposition ill-founded, many research studies of knowledge and opinion of the law have proven exactly that; the public's general knowledge of the law is very limited (Kutchinsky, 1968).

Aubert, Eckhoff and Sveri (1952) and Kutchinsky (1971) supra, establish a distinction between "consciousness of the norm" that is, being conscious of the fact that a law exists that governs our behavior within certain sphere of our behaviour, and "knowledge of the norm" that is, the knowledge of the law or the quantity of information one disposes of the content of a given normative regulation logically, consciousness of the norm must precede knowledge for it is impossible to imagine knowledge without consciousness; within a learning process, or information gathering, one must know

a priori that the thing exists before we can gather information about it.

In his ideal of rendering the law accessible to the general public, Friedland (1974, a - b) implies that consciousness does exist and that in order to acquire knowledge certain legal "instruments should be made more available to the population: lawyers, legal clinics, information centers, libraries, computers, etc." But how can the public search for information if it is not even conscious that such a law exist? In order to clarify this point of view, it would perhaps be advantageous to use an example, that of the income tax law, to illustrate well the importance of legal consciousness and knowledge for the average citizen. If one pays taxes in the routine manner one stands to pay proportionally more income tax than another who knows the income tax laws perfectly.

I consider consciousness of the law solely as a tool to caution against the inequalities of a system in which the minority in power enact laws, rules and norms to defend the interests of their own class. My

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intention is not to digress on the theme of consciousness and moral attitudes. I merely wish to refer the readers to the research by Aubert et al. (1952), Innstilling (1960), Aubert (1966), Shuyt and Ruys (1971) and Kutchinsky's synthesis on the subject (1971) come to the conclusion that interpersonal communication about a given law will have more influence on the consciousness of the law than in the knowledge of the law. Berkowitz and Walker (1967) in their article on the law and moral judgment show that there exists a slight but appreciable tendency in certain people, to allow themselves to be influenced in their opinion of the law by their consciousness of the law. Nevertheless, for researchers, the fact that knowing that a law exists, does not play a great role in the modification of moral judgments and the consciousness of a consensus of opinion within a group.

By making the general public conscious that such and such laws exist, it will be possible to create this consensus and from there develop knowledge of the law. It has been that consensus is not associated with knowledge of the law but to fear of police and as we shall see in the chapter on the prevention of juvenile delin-

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quency, through the teaching of the law in the schools, emphasis will be put on preventing arrests, labelling and stigmatization, rather than the prevention of criminal acts.

As we all know, those most underprivileged, those most removed from that class defining the law, are particularly penalized by the application of the law and the administration of justice, for the latter are but the expression of class justice that upholds the ruling class, labels the poor, the young, the women, the uneducated, the sick, the foreigners, members of certain religious sects, ethnic groups, members of certain political parties, etc..

10.

1. Variables

What factors are responsible for different attitudes toward the law? Generally a number of cultural, sociological, and psychological factors; among them are cultural differences, sex, age, education, place of residence, membership in specific interest groups as well as the personality of each individual. In the formation of the legal consciousness of the individual, they are often inseparately combined and mutually dependent.

a) Sex

The most significant difference shown by K.O.L. studies was that women tend to have less knowledge about law than men. These differences tend to disappear with the younger age groups, with increasing social and educational level and in newer studies. Kaupen et al. (1971) divided the female respondents into two categories housewives and women who worked outside the home. He then found that whenever there were differences between men and women, the attitudes of the working women were sometimes similar to those of the men, and sometimes

similar to those of the housewife. The differences found between the sexes are themselves related to other underlying factors such as education, age and social participation.

b) Age

The general trends were that younger people appear to be more "lenient, tolerant, reform-minded and liberal" towards crime and criminals, while older people are more "harsh, intolerant, oppressive, and conservative" with regard to legal reform. Young persons also tend to have less respect for the law than older people. One study, Versele (1971), showed that older people generally had less knowledge about law than younger people.

c) Education

The findings about the impact of education are still somewhat contradictory. Versele (1971) and Blom (1968) concluded that education influences people toward greater identification with the legal authorities and toward "rational" measures for the maintenance of social order.

d) Urbanization

People in rural areas are more intolerant of crimes than those in urban districts but these findings have been contradicted by studies in Poland and Norway.

e) Religion and Politics

Studies show that there exists little differentiation except in the case of those individuals belonging to radical groups or radical wings.

f) Socio-economic variables

A general trend found in most studies was that persons from higher social strata were generally more repressive and intolerant toward crime than persons from lower social strata. Higher social levels were especially intolerant towards crimes of property and violence. In most studies, there was also a clear tendency of persons from higher social levels to have more confidence in the judicial authorities.

The common denominators of all these factors seem to be:

- 1) the degree of social participation, and
- 2) the general level of knowledge.

Prevention of Juvenile Delinquency

The Report of the Katzenback Research Commission on Juvenile Delinquency (1967b;410) concluded that "there are no demonstrable proven methods for reducing the incidence of serious delinquent acts through prevention or rehabilitation procedures". Attempts have been numerous in this field and the many failures certainly are not due to a lack of efforts on the part of criminologists.

1. Methods, means, and experiments

In their survey of 25 years years' experience in the prevention of juvenile delinquency, Caldwell and Black (1971) came to the conclusion that it is necessary to be able to count on the support of the general population so that, on one hand, it does not label the young erroneously and, on the other hand, that it apply pressure on the federal, provincial, and municipal institutions not only to obtain better schools and organized recreation, but to fight against poverty, malnutrition, and against all other factors considered detrimental to child development. In this perspective, Caldwell (1965) recommends the following points as a guide for a prevention program:

- 1) Delinquency is only a symptom, the product of interaction of personal and environmental factors. We must, of course, deal with the symptom and try to alleviate it but-and this is very important- we must also direct more of our attack against the underlying causes if we hope to produce any real reduction in delinquency.

- 2) Delinquency is both an individual and a social problem. We must include individualized correction as well as community action in our efforts to prevent it.
- 3) Delinquency is the product of many causes. We must organized a complex attack against it, employing the resources of all fields or human knowledge.
- 4) Delinquency is interrelated with all other social problems. We must subject it to a diversified attack including measures specifically directed against it as well as those designed to deal with it indirectly by reducing unemployment, broken homes, and other social problems.
- 5) Delinquency is relative to time and place. We must have a dynamic attack against it -one than can cope with changing conditions and the peculiarities of different situations.
- 6) Delinquency is an old problem and probably will never be completely eliminated. We must have a continuing attack against it.
- 7) Delinquency is a pervasif problem, affecting many people of all classes throughout society. An attack against it must have widesread public support developed through an educational program that informs the people about the nature and extent of delinquency and encourages them to participate in every way in the action against it. (Caldwell, 1965, pp. 700-701).

2. Agents of Socialization

Most studies agree that any program geared to the prevention of juvenile delinquency must be undertaken as one facet of a global social problem and not as an independant problem. In this view, it is advisable that all organisms of socialization participate: the family, the school, the church, social agencies, recreation service. Unless there is a total synchronized effort, no effective results can be possible.

a) The Home

It almost seems redundant to insist on the primary role of the family in the development of the child and on the family as the foundation of our society; the home therefore is all important in any prevention program. If we hope to increase the role that the home can play in the prevention of crime, special attention should be given to the husband-wife relationship, the discipline of the children, parental affection or rejection of children, identification between father and son, and family income. In 1967, The President's Commission on Law Enforcement and Administration of Justice, after considering these factors recommended:

- 1) Reducing unemployment and devising a method of providing minimum family income;
- 2) Reexamining and revising welfare regulation so that they contribute to keeping the family together;
- 3) Improving housing and recreational facilities;
- 4) Insuring the availability of family planning assistance;
- 5) Providing help in problems of domestic management and child care;
- 6) Making counseling and therapy easily obtainable;
- 7) Developing activities that involve the whole family.

b) The School

The school is in an excellent position to prevent delinquency. Nevertheless, we must not let this distort our view of the essential responsibilities of the school. It is not a clinic, a hospital, a welfare agency, a police station or a correctional institution.

In the first place, the school should provide an adequate program of study that fits the needs of all children and results in their wholesome growth and development. For this purpose, the program should be diversified and individualized so as to overcome inadequate preschool preparation, to raise the aspirations and expectations of those students capable of higher education and to offer better courses in child development and home-making for those who will leave school as soon as the law permits. A well-organized school curriculum should fill the gaps that the child is lacking in the home, and in return, allow that student, in later years to raise his children under better conditions than he himself knew.

A pilot project in the City of Wintchester in 1961 introduced a teaching course aimed to familiarize students with the law. It sought to inform them of their rights and obligations, to have them understand that the law was not only troublesome restrictions on their activities or a senseless control but that it also permitted freedom and individual development. This idea, developed in many other American cities, has been borrowed and largely expanded upon by the Canadian Society of Criminology (McGrath, 1964).

Compensatory education and assistance to those not having completed their education are effective means in delinquency prevention as they minimize the labelling of drop-outs as delinquents or potential delinquents. Besides, the prospects for job opportunities in a technocratic society for the unskilled are becoming more and more scarce. Cloward and Ohlin (1960) demonstrate this in their theory of differential opportunity.

c) Job Placement Services

Job placement services in the schools that exist at the moment are found in universities and therefore do not come into contact with the delinquent population. To remedy this situation, the Youth Job Center of the "Mobilization for Youth" Association of New York City, aimed to accomplish the following objectives:

- 1) to increase employment opportunities and make existing posts more accessible to the young;
- 2) to widen their professional horizons;
- 3) insure the effective utilization by the young workers of existing resources in professional development;
- 4) to co-ordinate job opportunities with potential employers.

For the school-age youth, vacation programs should be organized for the summer holidays are a period in which delinquency increase with a special intensity in certain regions.

We should also provide the young with the opportunity to combine work and school by establishing part-time work, which might offer the financial possibility to register in a college or university program. These programs, established in Canada, appears to be very successful.

d) The Church

By its teachings, the church can exert great influence against crime and delinquency and those programs it had developed have proven very effective. However, how active a role can the church take without being accused of meddling into state affairs.

The Report on Church Responsibilities from the National Conference on Prevention and Control of Juvenile delinquency enumerated the following points:

- 1) urge its members to assume leadership in community programs for the prevention of crime and delinquency and to serve on boards and councils of secular agencies involved in law enforcement and correction;
- 2) encourage its young people to seek their life's work in fields where they can deal with social problems;
- 3) provide guidance, counseling, and instruction for young people to strengthen their spiritual and moral values and assist them in the handling of their personal problems;
- 4) organize meaningful and wholesome activities and group discussion periods for its young people;
- 5) offer educational programs designed to prepare young people for marriage and family life and to assist parents in the solution of their family problems;
- 6) furnish funds to indigent children to attempt its summer camps;
- 7) operate youth organizations which stress Christian education character development, recreation, etc..
- 8) establish missions, settlement houses and welfare agencies in poverty stricken areas;

- 9) strive to give religion a more dignified and influential position in the programs of correctional institutions;
- 10) points the way to the development of more effective correctional programs by utilizing in its own correctional institutions and agencies the best that science and human experience have to offer;
- 11) invite judges, correctional workers, and law-enforcement officers to its study groups and conferences;
- 12) bring as many children and adults as possible into its membership and services.
- 13) cooperate with neighbourhood organizations and citizens groups in handling common community problems, including crime and delinquency.

e) Organized Recreation

According to the National Conference on Prevention and Control of Juvenile Delinquency (1942), organized recreation can make an important contribution to the prevention of juvenile delinquency as it helps the young acquire law-abiding attitudes, habits and interests.

Various studies have been made to determine whether organized recreation is effective in preventing juvenile delinquency. Thus Thrasher's research on the operation of the Boys' Club of New York City (1927-1931), found that members of the club were more delinquent than other boys in the community. These negative results were invalidated by another study made in Louisville, Kentucky. The delinquen-

cy rate decreased steadily during an eight-year period in an area where a boys' club operated but increased during the same period in two other areas where no youth-serving agencies existed.

Over thirty years ago (1942) the Chicago Recreation Commission made a study of five selected communities to ascertain the relationship between recreation and juvenile delinquency. This study revealed that an higher percentage of nondelinquents than delinquents participated in supervised recreation and when delinquents took part in supervised recreation, they preferred competitive sports and activities such as those in the game room where there was little supervision. Unfortunately, the results of this study were dubious and did not confirm the hypothesis that organized recreation was effective in preventing juvenile delinquency.

A few years after this Chicago study, the Crime Prevention Association of Philadelphia conducted an investigation and concluded that the recreation program in that city had decreased minor offences but had failed to effect any change in the number of serious offences.

As the foregoing studies indicate, no one has been able to prove conclusively that organized recreation has prevented juvenile delinquency. According to very recent

studies, organized recreation might, on the contrary, be a factor contributing to the increase of delinquency (Klein, 1971) in the sense that sports' coaches, like the street workers are very structured and reinforce the delinquent gang's cohesion, social status, roles and functions. This increase in group cohesion favors recruitment among the young and allows the gang to exercise a more concerted although damaging effect.

Authorities accept organized recreation as a prevention of delinquency, although most research tends to prove otherwise.

The methods and programs for prevention surmised about were based on the traditional approach, which stressed the community action approach and is based on the hypothesis that poverty is the cause of crime. Vold (1958) synthesized these studies on poverty when saying that

From the earlier studies to the present, the conclusion has usually been taken for granted that poverty and unemployment are major factors producing criminality - It would be more logical to conclude that neither poverty nor wealth ... is a major determining influence in crime and delinquency.
(pp. 169-172).

The Office of Juvenile Delinquency used the differential opportunity theory (Cloward and Ohlin, 1967) as the basis of its delinquency prevention program (Morris and Rein, 1967). Mobilization for Youth in New York City was based on this theory of delinquent behavior; reducing poverty was given first priority in order to prevent and control delinquency (Brager and Furcel, 1967). Throughout the U.S., such projects multiplied; unfortunately success was scarce. Clinard (1968), Miller (1962) and Moynihan (1968) question the validity of the Cloward-Ohlin thesis and the role of social science specialists in anti-poverty programs. Jeffery (1970) presents us with a model of crime prevention that he calls direct environmental engineering. An adequate model of crime control must:

- 1) prevent crime before it occurs, not deal with it after it has occurred;
- 2) establish direct controls rather than indirect control over criminal behavior; and
- 3) change the criminal environment in which crimes occur, rather than deal with the personality of the individual criminal. (p. 52).

This method, system analysis, stresses organism-environment interaction, the interaction of parts to system, or one system to another system; to change the behavior of the individual criminal, we must change the environment to which he responds.

The failure of psychotherapy, group group counseling, probation, parole, prisons, job training programs, and remedial education programs is in no small measure due to the fact that such programs operate on the individual offender and do not change the environment in which crimes occur (p. 53).

If we view criminal behavior as a response to an environmental opportunity to commit a crime, rather than as a psychological or sociological trait of an individual offender, the law-enforcement becomes a matter of environmental engineering. If we use a decision-theory model, criminal behavior becomes a matter of potential gain, reward, versus potential loss, punishment, and as our judicial system now operates, the gain outweighs the loss. By making the commission of a criminal act impossible or at least difficult, we would reduce the potential gain to a minimum while increasing the potential loss. This will require extensive use of science and technology in the prevention of crimes as well as the use of urban design and planning as an integral part of law-enforcement and crime control.

In this perspective, the old concepts and practices of furnishing services to inmates, such as those involved in therapy, probation, imprisonment and community action program would be replaced with science, technology,

Table 3. OLD MODEL

<i>Crime Committed</i>	<i>Police</i>	<i>Courts</i>	<i>Corrections</i>	<i>Outcome</i>	<i>Future</i>
Action taken for deterrence of individual offender	Investigations Arrests Identify criminals so they can be punished	Determination of guilt via prosecution, sentence for punishment deterrence Imprisonment	Custodial case of inmates, use of prisons, to deter individual criminal	Low success rate Low rate of arrest and police efficiency High rate of civil liberties violations Low conviction rate – high rate plea bargaining Failure of prison systems to deter; overcrowding of criminal justice system	Failure of deterrence model High crime rate, high recidivism rate, continued overcrowding of facilities; inadequate facilities for police, courts, corrections; continued pressure for more repressive measures against criminals
Action taken for rehabilitation of individual offender	Investigations Arrests Identify criminals so they can be rehabilitated	Determination of need of treatment Define behavior as illness to be treated Indeterminate sentence, probation, parole, juvenile court, mandatory treatment of sex/narcotics offenders	Rehabilitate individual offender via therapy, group interaction, job training, education; parole with case work supervision	Low rate of success of therapy, job training welfare programs, prison programs, probation, parole casework; Failure of rehabilitative model plus serious violations of civil liberties of accused	Failure of treatment, rehabilitation model High crime rate, high recidivism rate, High rate of unemployment, delinquency, school dropouts; inadequate parole/probation facilities; continued pressure for more treatment programs; new criminals enter justice system at police phase; recidivists enter justice system at police phase

Table 4. NEW MODEL

	<i>Prevention Through Environmental Engineering</i>	<i>Prevention Through Behavioral Engineering</i>	<i>Outcome</i>	<i>Future</i>
Before crime is committed	Surveillance systems Urban Planning and Design Removal of opportunities to commit criminal acts	Reward lawful behavior Remove rewards from criminal behavior Preventive police patrols Citizen involvement Education of potential victims Insurance Programs Social cohesiveness of urban neighborhoods	Reduced crime rate; Reduced pressure on citizens, police, courts, corrections; low rate of civil liberties violations; less money spent on criminal activities; more money spent on urban developments, environmental improvement, education, employment	Reduced crime rate; improved environmental conditions; lower cost of crime; lower cost of welfare; rebuilding of urban environment; reduced behavioral disorders
After crime is committed	Development of rapid response system; scientific evidence for conviction; computerized data system; modern communication system; better detection/apprehension system	Environment/behavior research on control of criminal behavior for those cases not under control at this time; use crimes committed as basis for further research	Channel criminals into urban work force; development of behavioral controls over criminal behavior	Recycle new crimes into prevention system, not into courts or correctional system

urban planning and design, decision theory and system analysis. As the above charts demonstrate, in Jeffery's (1971, pp. 294-295) new model of behavioral engineering, we see that great attention should be paid to social engineering or promotion of the law, which would restore to the law its original function, that of cautioning, forewarning the individual.

As an integral part of behaviorism , environmentalism, criminal law must become a deterrent; it should be seen as an instrument eliciting a certain behavior, all the while guaranteeing due process of law; one must dismiss the rehabilitative models of the social work type and return to its historic role, that of social control, while shifting the emphasis on the environment rather than the delinquent himself.

In environmental engineering, the first step to take would be to make the law accessible to the population; in other words, the youthful victims of labelling and those charged with the responsibility of upholding the law would have equal footing in their knowledge of the law. This is the prevention program we are proposing without rejecting a priori past experiences.

3. Prevention by Anti-stigmatization

It is accepted, amongst all sociologists that

Deviance is not a quality of the act a person commits, but rather a consequence of the application by others of rules and sanctions to an "offender". The deviant is one to whom that label has successfully been applied; deviant behavior is behavior that people so label. (Becker, 1963, p. 9).

For many authors (Leblanc, 1971), delinquency is not a particular phenomenon but an epiphenomenon of adolescence: it is normal and characteristic of all members of that age group, from all social classes, the only difference being that the label delinquent is nevertheless attached to lower class youth.

Kutschinsky's studies of knowledge of the law emphasize the fact that ignorance of the law is characteristic of the under-privileged classes, particularly with delinquents and incarcerated criminals. This supports his hypothesis that those labelled as criminals are least likely to have knowledge of the law. Certain judges and jurists, e.g., Dean Bellemare, are of the opinion that even the worst of criminals, defended by the best of lawyers, has all the chances in the world to walk out of the courtroom, scot free. The labelling theory of delinquency has shown that youngsters of the upper middle class have far less of a chance to enter the criminal justice system than

the working class youth. This is due in part to the deciding judge's value system, a product of the bourgeois class, of which he is a member, and the differential labelling of police.

The implicit selection process of the judicial system can be easily explained by the fact that, on the one hand, for the administration of justice, the law is a tool, at its disposal, to be used and abused, while on the other hand, ignorance of the law being no excuse, the common man is incapable of defending himself alone; he must seek the services of a lawyer if he can afford or apply for legal aid.

The law has become so specialized that it can be handled only by the experts; it follows that a minority of citizens may get monopoly of it, perhaps abusing of it and that citizens' rights may be usurped by a certain group of those we call administrators of justice.

To remedy such a situation, it is imperative that the law be at the disposal of the general population. Various methods could be used to achieve this end.

The teaching of law in the schools, the restoration of a jurisconsult of the type that was practiced in Ancient Rome or more modern substitutes such as specialized libraries and computerized banks.

The teaching of law in the schools, as mentioned previously, had been an experiment in the city of Winchester in 1961, then put into practice in many American cities then redeveloped by the Canadian Society of Criminology and by McGrath's book, Youth and the Law, 1964, reedited in 1973. The teaching of law in the schools was highly recommended by the Law Reform Commission of Canada in its third annual report 1973-1974 and recommended by the Canadian Association of Police Chiefs at the Congress of Winnipeg 1974. Nevertheless all of these approaches aim to form a traditional citizen, submissive and obedient to all the rules and laws, as McGrath emphasizes (see Trépanier's critique, 1974) and Law Reform Commission of Canada's report (1973-1974).

If shared morality is part of what holds society together, as many argue, then law reform must take into account, articulate and help to shape those common values underlying the law. Upholding them, expressing them, developing them - this in the ultimate analysis is what law and law reform are all about. Only by

making sure that our laws enshrine the values which we really hold and by making certain that those values can be justified can we make genuine progress in our law. (pp. 8-9).

These points of view, based on positivist theories, are being flatly rejected by modern theorists of the sociology of law and criminology (Chambliss, 1973; Quinney, 1974; Taylor et al., 1973; Boaventura de Sousa Santos, 1973). These positivist hypotheses of law and social cohesion are contested by hypotheses from conflict theory, which consider the law as a mirror of the values, customs and beliefs of the dominant class, serving as instrument in the oppression of the working class.

In the positivistic perspective, the teaching of law within the schools would have but one goal, to bring the young into subjection to the values, rules and norms of the establishment. This explains why the previous experiences failed; far from being taken in, the young refused to become manipulated by the establishment, controlled and submissive.

On the contrary, in the perspective of conflict theory, the teaching of law in the schools seeks to place the law at the disposal of the student; in other words

to allow the future citizen to compete with equal strength against those who until now have held the monopoly of the law. In no way, is this a revolutionary action; the program only seeks to restore to the people the control and mastery of a tool which is theirs and that lawyers and legislators have specialized to such an extent that it has become exclusively the tool of experts.

In order to put the law at the disposal of the population, it is necessary to teach it from as early as the first school grade (and not at the secondary school level as has been the tendency), with methods adapted to the development of the child, focusing the teaching on concrete cases and with a laymen's vocabulary, for legalistic jargon has been the downfall of many a writer trying to popularize the law. Eventually, the teaching will be cumulative, from year to year, remaining at the same time, dynamic, that is, adapted to the constant change of the legislation.

In order to insure success, the teaching of law, should be entrusted to regular teachers, not the experts. To date, past experiences with the R.C.M.P. or police officers as teachers have failed; on the one hand, these policemen have little teaching training

or experience and, on the other hand, the teaching of law by experts would only reinforce its image as the tool of experts.

Juvenile delinquency will be prevented by providing the young with legitimate means of guarding himself against labelling. It should not be difficult to give a child the same legal education as the average policeman. It is to be hoped that in the future every citizen will have some basic legal knowledge that will enable him to read and understand legal texts and from there to thwart the usurpation of his right by those, who until now, have a monopoly of it.

Sample

The sample population to be interviewed will be stratified by clusters; since the questionnaire is to be answered during the class hours, the classroom (average of 25 to 30 students) will be our unit, having been stratified according to the following criteria:

Primary schools

School	public	separate
Language	english	french
socio-economic standing	low	middle-up class
School grade	fifth and seventh grade (average age - 10 and 12 years)	

Secondary schools

School	public	separate
Language	english	french
School grade	ten and twelve (average age - 15 and 17 years)	

Cambrian College

- full-time day-time students in their second year
(average age - nineteen years)
- students in the extension program in their second year
(over 21 years of age)

Laurentian University

- full-time students in their second year
(average age - 19 years)
- students in the extension programs
(over 21 years of age)

There are in Sudbury, roughly speaking, approximately 40'000 students in the educational system:

primary	-	27'000 students
secondary	-	8'000
collegial/university	-	5'000
full-time/part time	-	

The Questionnaire

We hope to have the questionnaire answered by the student himself, during a class period (forty-five minutes maximum) after instructions from the interviewer. The questionnaire will be standardized in order to be acceptable by all levels (fifth grade students as well as second year university). It will have to be understandable for children of ten years (the age at which according to Piaget, the child has acquired moral consciousness) and interesting enough to be completed by adults taking university or collegial level extension courses.

The questionnaire will focus on the two aspects of the problematic, consciousness and knowledge, variables which are controlled by the classical given informations: age, sex, religion, etc.. and other certain variables such as interest in the mass-media, the degree of social participation, attitudes towards authority and their concept of justice.

In order to facilitate the comprehension of the questionnaire, most questions will be closed or multiple choice, in order, that it be directly precoded for the I.B.M. cards.

All the data will be compiled by the computer, which is extremely important to preserve the confidentiality and non-identification of the classroom, the professor and the school. The questionnaire will necessitate many pre-tests at all levels of the school system, in order to control the comprehension level.

We are counting on the teacher's presence in the classroom, during the testing and we accept a priori, all rules and regulations of the school board and the schools regarding this research.

Timetable

The research will begin in July of 1975 with a survey of all reports, texts, and journals on knowledge and consciousness of the law and the teaching of law in the schools followed by the elaboration and pre-testing of a questionnaire which will be distributed in the schools approximately in October of 1975.

The sampling will take a couple of weeks of work if we wish to take into account all of the variables. The sample will be chosen according to the school population of the 1974-75 school year, but making the necessary adjustments for 1975-76.

The coding of the questionnaire data into computer cards, will take at least one week and the data processing may begin as early as November 15th. The analysis and interpretation of results will be the most complex work and will be done during the months of January, February, March and April of 1976; the drafting of the final report as well as the problematic and the methodology will be completed concurrently. The interpretation, conclusions, and recommendations will be written during the following months, (May, June and July) so that the final report should be typed and duplicated by September of 1976.

Timetable

July, August and September 1975

- survey of literature
- elaborating of questionnaire
- sampling

October 1975

- distribution of questionnaire

November 1975

- data processing and coding

December 1975

January, February, March, April 1976

- interpretation of data

May, June, July, August 1976

- drafting of the report
- typing
- duplicating

September 1st, 1976

- final report

BudgetPersonnel

2 research assistants:		
4 months full-time	\$1'920.	\$ 3'840.
8 months part-time	\$1'920.	\$ 3'840.
40 interviews at \$10. per interview		\$ 400.
Secretary, part-time	\$3'000.	\$ 3'000.
Programmer (special program)		\$ 100.

Computer services

Computer : 2 hours at	\$ 400.	\$ 800.
Punching of I.B.M. cards : 4000 cards at	\$ 0.15	\$ 600.

Materials and photocopy

Questionnaire: 1000 copies of 10 pages therefore: 10'000 pages at \$0.04		\$ 400.
Final Report : 50 copies of 500 pages therefore: 25'000 pages at \$0.04		\$ 1'000.
Paper, type writing ribbons, other supplies		\$ 200.

Travel Allowance

1'000 miles at \$0.16 per mile		\$ 160.
		<u>\$14'340.</u>