



SOCIETY AND THE CRIMINAL. By J.M.J. Sethna. N.M. Tripathi (Pvt.) Ltd., Bombay. 1971. Pp. xxv + 508. Rs. 24.

CRIMES ARE as old as society and, similarly, old are the writings on the two topics. Various reasons have been professed by sociologists, criminologists and jurists for the commission of crimes but the answer to the problem "why crimes are committed" is yet awaited. *Society and the Criminal* by J.M.J. Sethna is one of the many writings on topics like commission of crimes, relationship of man and society *vis-a-vis* the crime, juvenile delinquency, theory and practice of punishment, prison system, etc.

The book consists of 3 parts, divided into XII chapters, besides the 'Introduction'. The 'Introduction' chapter, classified into sixteen headings in twenty-four pages, is more or less a summary of the relationship between society and the criminal. The chapter on one hand, deals with such vague topics as "what is law?", and, on the other, with such extra legal topics as "what is sin?". According to the author a criminal is a person who refuses to co-operate with society.

The author observes that in England there is the "rule of law"; in France, *droit administratif* and in the United States the doctrine of *ultra vires*. He equates the position in India to that of the United States only. Discussing the definition, nature, and the utility of law, the author has cited the opinions of many well known jurists. No functional definition has, however, been given. According to him, law should be based on religion. This is a very bold statement indeed. It has been, in the modern society and the constitutions, a practice not to merge religion with law. An infusion of religion, ethics or morality in law would result in the growth of theocracy and autocracy. Modern law should be secular and not biased.

About the ends of justice the author says that it should also include mercy. According to him grace and kindness, rather than rules of law and procedure, should be the standards of justice. If this be the end of justice, there seems to be no necessity of either the legislatures or of the courts. A disregard of the rules of law and procedure would also lead to barbarism.

The author has discussed the psychological, anthropological, ethnological, and social factors that contribute to criminal behaviour. The habits, temperament and personality of the criminals in this regard have also been discussed. He has referred to many foreign writers on these topics. In all these discussions, there seems to be nothing new which a man interested in crime and society is not supposed to be aware of. Frequent references to foreign writers have been made in discussing the types of criminals. No instance, however, from the Indian socio-economic structure has been cited in this regard except that, in fourteen lines, the author has classified criminals in India into two, namely, the real and the unreal, both of which have been explained conjointly by saying that they may consist of adults and juveniles, violent offenders, robbers and "offenders against



good morals and public health". Offenders against social and economic security have altogether been ignored. Lombroso's theory has been discussed without pointing out anything new either in its interpretation or application. A useful study has been made of criminal tribes with special reference to Bombay. A survey of legislations in this regard has also been made but the same is not complete. The author still holds that heredity and genetics are the major causes of crimes. Modern researches in sociology and human behaviour have shown that social and economic forces rather than heredity and genetics perpetrate crimes.

Part II of the book has four chapters dealing with the "Problem of Crime". Physical conditions and ailments, organic and mental diseases, fear, irresistible impulse, bad environment, alcoholism and addiction to drugs, avarice, personality maladjustment, family disorganisation, cinema, lack of moral education, poverty, customs, lack of sanitation and even idleness, have been said to be the causes of crime. These require reappraisal and reassessment in the context of a developing society like one of ours. It is amusing to note that two of the causes mentioned by the author, are headache, and the use of tobacco. Socialisation of education, constructive planning, useful home-training of children, prevention of moral and mental conflict and development of cultural values are the remedies suggested for the avoidance of crimes. It is doubtful whether these suggestions are workable as, some of them are utopian and the rest involve big finances, efficient operational agencies and, above all, a determined national will. Further, the ever increasing population, the pace of industrialisation, migration of population to urban areas, and conflict between national and international interests can also not be overlooked in this regard.

The history, theories and kinds of punishment have been discussed in a conventional way. "Insanity" and "drunkenness" have been elaborately explained although they have nothing to do with the theories of punishment. These discussions are of some informative value to a student who wants to acquire a little knowledge of penology. In the whole of this big chapter, the author has not discussed the desirability of capital punishment in India, which is a big omission. As far back as 1962, a resolution was moved in the Lok Sabha that capital punishment should be abolished. The matter was then referred to the Law Commission which has, in its forty-second report recommended that it should be retained.

Extensive information is provided about the prison system and prison reforms in India and elsewhere. Personal and individual contacts with the prisoners, running of prison clinics, making the prison-labour less rigorous, imparting of religious and moral teaching to the prisoners and classification of prisoners according to their good behaviour and conduct are some of the constructive suggestions made for prison reforms. In conclusion, the author observes that :

**Prisons should be places for re-education, but should not be so**



comfortable as to be attractive.<sup>1</sup>

This goes against all the good words that he has spoken about the prison reforms. However, one may take it as 'a conclusion' and not 'the conclusion'.

Part III deals with "Juvenile Delinquency", many causes of which have been discussed from various angles. The most important cause which has been overlooked by the author, is the lack of family care and affection. To make a better living, mother and father both, today, take up employment. Consequently, the children grow up in an atmosphere where parental affection and continuous vigilance are lacking. They are brought up in a home without its head and in opulence without its proper use. Their indignation against the denial of parental love and care is exhibited through delinquent acts, violence and lack of a sense of duty and values. A detailed study of this aspect of child delinquency is called for and it is hoped that the author, in a subsequent edition of the book would deal with it.

Various types of treatment of juvenile delinquency have been discussed. There is nothing special to mention about them other than what is contained in the usual textbooks on educational, abnormal and child psychology.

A good deal of discussion has been devoted to the "Prevention of Juvenile Delinquency." The author suggests an overhauling of the teaching system, of the training of the teachers for juvenile schools and of the juvenile school buildings and stresses the need for imparting vocational training to the delinquents. He has also suggested that mental hygiene should be made an independent subject of study. It may be pointed out here that, in India, a school of mental and moral hygiene is already functioning. Removal of inferiority complex, avoidance of ridicule, development of individuality and imparting of moral education are other remedies to treat juvenile delinquency. It may be observed here that the author, who has cited many authorities in enunciating the remedies, has not pointed out anywhere the extent to which these methods or remedies have been successful. The reviewer thinks that some field work should have been done by the author in this regard, may be only with one kind of remedy to begin with. In the conclusion, the author has shown his great concern about delinquent children but this concern has nowhere been spelt out through the remedies suggested by him. The conclusion that

the application of modern scientific methods would be a great blessing in the attainment of our goal, *viz*, cure and prevention sounds only as a sermon.

Chapter XI deals with juvenile legislations, courts and probation. A brief but interesting history of juvenile legislation in India, England and

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1. J.M.J. Sethna, *Society and the Criminal* 361 (1971).

2. *Id.* at 392.



the United States has been referred to. Legislations relating to children in the States of Bombay, West Bengal, Madras, Andhra Pradesh, Assam, Bihar, Jammu and Kashmir, Kerala, Madhya Pradesh, Mysore, Orissa, Punjab, Gujarat, Uttar Pradesh and the Union territories have been discussed briefly. The list of such legislations is, however, not complete.

The functioning of juvenile courts in Mexico, Soviet, and Japan has been very briefly discussed. Similar discussions have been made about the city of Bombay. Very little has been written about the probation and rehabilitation of delinquent children. This is a very important topic and should, as a matter of fact, form a full chapter. Making delinquents good citizens and providing them chances and facilities for the same is as much an important duty of the state as the prevention and punishment of delinquency and delinquents.

The author has suggested that there should be a Child Welfare Board for the benefit of the delinquents. Probably he is not aware of the scores of agencies that are looking after child delinquency, welfare, rehabilitation, uplift and also reclamation of illegitimate children in India. In chapter XII a discussion of some children schools, specially in Bombay, Poona, Dharwar and Alipore has been given.

An "Appendix" for which, in the opinion of the reviewer, there was no necessity, has been appended to the book. In about five pages of the same, a few cases have been discussed. Incidentally, no citations of the cases have been given. The cases dealing with love tangles, discord and insanity, *etc.*, do not seem to have any relevance to the material discussed in the book under review.

The book, which runs into the third edition, looks to be a compilation of anything and everything about society and the criminal. About three hundred and thirty two topics have been discussed in four hundred and fifty-one pages. Thus, roughly one and a half pages have been given to each topic. Some topics have been discussed in as little as one, five and seven lines. Much of the book contains quotations mostly from foreign writers.

A comprehensive "Select Bibliography" is an asset to the book. The book, is useful for a preliminary reading to beginners on the subject of crime in society.

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