



SETHNA'S SOCIETY AND THE CRIMINAL (5th ed. 1989). Edited by Jehangir M.J. Sethna. N.M. Tripathi Pvt. Ltd., Bombay. Pp. xix+407. Price Rs. 100.

THE BOOK under review,¹ which mainly deals with the sociological aspects of crime and its prevention and views crime as a social and moral responsibility of the community, adds to the available scanty authoritative work in the field of criminology in India.

The themes pursued exhaustively in the book are, (i) problems of crime and its prevention; (ii) personality of the criminal and his treatment; (iii) prison reforms and its administration; and (iv) juvenile delinquency, its causes, treatment and prevention.

The editor has intensively analysed the importance of social living and the role of state and law in keeping human life and values intact to illustrate a well known and established proposition that the criminal is not only a mentally defective or emotionally disturbed person but also a victim of unfavourable circumstances. He has surveyed a vast literature to extract diverse factors—physiological, social, environmental and economic—responsible for such anti-social behaviour. He rightly argues that a criminal, like a sick person, needs proper treatment, and pleads for his individualised treatment. The editor, with a view to ensuring effective reformation, suggests a 'Four Point Formula'.² He feels that the following categories of offenders be made for their meaningful 'treatment' and 'correction': (i) offenders who need treatment *without any punishment* (psychotics, and neurotics); (ii) offenders who need to be reformed *while being punished* (hardened and confirmed criminals); (iii) offenders who may simply be punished *without the necessity of any treatment* (white-collar criminals); and (iv) offenders who need neither punishment nor treatment but simply warning or release on probation (first offenders, traffic rule violaters). The suggested categorisation, though *prima facie* seems idealistic, deserves due consideration. The contemporary administration of penal justice undoubtedly warrants such strategy for effective reformation of prisoners but it, obviously, involves overhauling of the criminal jurisprudence, penal administration and scientific classification of prisoners.

Extensively analysing the 'why' and 'how' of 'punishment' alongwith its traditional theories and forms, the editor, forcefully argues for payment of compensation/punitive damages to the aggrieved party, as a concomitant with punishment. While emphasising the need for association with punishment of compensation as a fundamental factor like that of reformation

1. Jehangir M.J. Sethna (ed.), *Sethna's Society and the Criminal* (5th ed. 1989).

2. *Id.* at 186-91.



in the administration of penal justice and relying upon the classical school of penologists, he argues that such an approach would not only undo the evil effects of the wrongful act and prevent crimes but also prove an effective method of deterrence and true reformation.³ Obviously, the scope of the proposed theory of compensation is limited to the crimes committed by 'free will' leaving aside crimes incapable of calculation of 'pain and pleasure' associated with the commission of crime.

The editor gives a brief sketch of the contemporary prison systems in UK, USA, USSR and Japan and dives deep into evolution of the prison system in India. Unfortunately, he has concentrated on this rather than evaluation of its role and contribution as a 'correctional' or 'reformatory' institution. However, the evolution of the Indian prison system sketched by the editor is not upto date and comprehensive as it fails to refer to a few recent significant and authoritative works at 'national'⁴ and 'international' level.⁵ Similarly, he has also not dealt with a few significant innovations introduced in the administration of penal justice in foreign countries and India. The emerging idea of open air prisons in UK and India⁶ and privatisation of prisons in UK,⁷ for example, do not find a place in the book. However, he makes a fleeting reference to, and offers a superficial explanation of, the open air prisons in India. A functional evaluation of such innovative experiments in the prison system would have certainly enriched the value of the book in which the editor has vehemently pleaded for individualised treatment of prisoners. Such omission is unjustifiable and unconvincing. Nevertheless, the brief sketch of the prison systems in India and in different countries enables a reader to have a comparative assessment of the Indian prison system in vogue and to identify its shortcomings.

Part III of the book is devoted to juvenile delinquency—its causes, treatment and prevention to plead necessity of 'proper' handling of juvenile delinquents at an early stage to prevent criminality. He accordingly identifies a few pertinent factors leading to juvenile delinquency and stresses proper segregation of juvenile delinquents and their institutionalised treatment through law, courts, probation officers, and Children's Aid Societies, Homes and Certified Schools. He emphasises the need of a 'good school' imparting moral, psychological and cultural education and offers a set of

3. *Id.* at 202-207.

4. For example, Report of the Justice M.M. Ismail Commission, 1977; Report of the All India Committee on Jail Reforms (Justice A.N. Mulla Committee) 1980-83, 2 volumes; Vidya Bhushan, *Prison System in India* (1970).

5. Reports of the successive sessions of the United Nations Congress on the Prevention of Crime and Treatment of Offenders (particularly, Standard Minimum Rules for the Treatment of Prisoners recommended by the First UN Congress in August 1955).

6. See generally, Howard Jones and Paul Cornes, *Open Prisons* (1977); D. Chandra, *Open Air Prisons: A Sociological Study* (1984); K.I. Vibhute, "Open Prison at Paithan; Case Study", 8 *C.U.L.R.* 367 (1984).

7. HMSO, *Contract Provision of Prisoners : Privatisation of the Prison* (1987).



ideal guidelines worth considering to this effect. A resume of juvenile legislations and extensive analysis of the recently enacted Juvenile Justice Act 1986 and role of the courts, probation officers, Children's Aid Societies, Homes and Certified Schools in prevention of juvenile delinquency, forming the subject matter of subsequent chapters, is exhaustive and analytical.

Almost every chapter is informative, lucid and readable. The select bibliography and index appended to the book further enhance its utility. A reader, however, gets a feeling that the introduction is loaded with a few unwarranted aspects of the problems discussed in the book. One also notices a few glaring printing⁸ and punctuation mistakes.⁹

These comments, however, should not be taken as a negation of merits and contribution of the book. The book, which has run to the fifth edition, is prescribed as a textbook by a number of universities in India for their LL.B., LL.M. and M.A. (Sociology) courses. The fact is nothing less than a testimony and recognition of its utility and contribution in the field of criminology. However, a due positive consideration by the editor of these comments in the next edition, would, in the opinion of the present reviewer, enhance the utility and contribution of the book.

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8. 'God Education' instead of 'Good Education' (*supra* note 1 at 30), 'Poor Laws' instead of 'More Laws' (*id.* at 41).

9. See *id.* at 99, para 2.

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