

## BOOK REVIEW

AHMAD SIDDIQUE'S *CRIMINOLOGY & PENOLOGY*, S M A Quadri, Eastern Book Company, Lucknow, 2009. Pages xxxii + 651. Rs.350.00

Ahmad Siddique's *Criminology & Penology* is a successful book on the subject, used extensively by the law students in India. The author has attempted to update and has successfully incorporated the emerging changes, thus providing a new look to the earlier treatise. The book under review is a walk through the subject 'criminology and penology' and is concerned with the nature, causes, prevention, punishment, administration etc., of crime. It largely focuses on the definitions of crime with reference to criminal law. The book is largely about criminology from a legal scholar's perspective. As a user guide and manual for the law students, the book is designed as a route map to provide an overview of criminology and penology. The legal interfacing of criminological thinking is seldom attempted by legal scholars, though most of the end users are fraternities from criminal justice administration. The book originally authored by Ahmed Siddique has been given scholarly attention by SMA Quadri in its current form.

Crime is 'an intentional act or omission in violation of criminal law, committed without defence and justification and sanctioned by the laws as felony or misdemeanor'; i.e., 'an act or omission in violation of law'. The Indian penal law defines 'offence' as those things made punishable by this Code (§ 40, Indian Penal Code, 1860); 'offence' means any act or omission made punishable by any law for the time being in force ....' (§ 2(m) of Criminal Procedure Code, 1973). The legalistic definition is the starting point for enquiries and learning in criminology, despite certain objections to the thrust on the criminal law approach. However, the study of criminology as a branch of persuasion with respect to causative approach or descriptive approach or the normative and non-normative approach have not been attempted by the legal scholars or lawyers as much as has been done by sociologists who later on qualified as the forerunners of criminology and penology.

Criminologists like Sutherland, Gellin and Clinnard have either rejected the legal definition or have led the study and research beyond the limits of criminal behavior laid down by the law. Others such as Paul W. Tappan, Jerome Hall have opposed such an approach and felt that criminology is synonymous with the sociology of criminal law. Emile Durkheim, Thosten S Sellin, Walter C. Reckless, Marvin E. Wolfgang, Radzinowickz, Richard Quinney, Glueck to name a few, are the scholars who have immensely contributed to the subject and assisted in the systematization of criminology as an independent discipline. The contribution made by legal commentators like William Blackstone, Sir James Stephens, H.L.A. Hart and others is also noteworthy. The credit for the development of the subject and enriching its scholarship can be mainly attributed to sociology and social work, in spite of it being a field where the paradigms of study are largely dominated by criminal law. In India, Ahmed Siddique's book on criminology and penology was one of the early attempts made in 1977, to author a work with a legal thrust for

the appreciation and benefit of law students and scholars. In most of the Indian universities, in LL.B. syllabi, criminology and penology is a part of the course. Since the requisite legal treatment has been seldom attempted, even today, this book is the only one which provides the appropriate legal analysis to the understanding of making, breaking and treatment after the law is broken.

In a narrow sense, criminology involves the study of crime, the pattern and extent of depravity, the causative factors, the perpetration of crime, the breaking of law, the reaction towards such offending acts etc. whereas in a broader and more holistic sense, it encompasses the study of punishment – penology and the aspect of the victims – victimology – the complete justice system with regards to restorative justice. The study of criminology largely relates to aspects of law and order in a broad sense, dealing with penal sanctions as a reaction to crime and those aspects of non-penal intervention in the prevention of crime which are not the subject matter of its study.

In Ahmed Siddique's *Criminology and Penology*, the author has filled the gaps and fortified the necessary legal orientation, and hence, it is an improvement of the scheme and subject content of the book as compared to its first edition. The author has attempted to update the book and has expanded the contents to seventeen chapters. He has also provided Bare Acts of the Probation of Offenders Act, 1958 and the Juvenile Justice Act, 2000 (As amended up to 2006), in the appendix of the book. The book includes aspects of criminal justice administration, domestic violence, atrocity prevention law, communal violence, and victims of crime.

The novelty of the book lies in its appreciation of the subject matter of criminology with the necessary legal perspective. Most of the available books in India and abroad are the scholarly writings of non-lawyers, and even those attempted by legal scholars are characteristically sociological and/or involve a social science approach. The focus being on the legal analysis, the study of criminology provides a great opportunity to legal scholars in particular to open up to legal *a priori* reasoning with deductive logic from the empirical data, and from statistical analysis to observations, since generally, legal arguments advanced follow a doctrinal approach which are *a posteriori* in nature, inductive logic being the hallmark of the reasoning. The study of crime, causative factors, the making, the breaking and the reaction to such breaking of law is largely a societal phenomenon and by normative methods, legal formalization is attempted.

The study of criminology as a subject was invented, developed and advanced mostly by non-legal scholars, legal scholars being the later entrants into the arena. Criminology and penology as subjects of persuasion contributed to legal research immensely by the empirical research models and the juridical postulates are gaining to accumulate as parameters of juridical science. The empirical legal research tools are mostly criminological i.e. the social-science tools. The empirical legal research is yet to develop any research tool of an independent identity. The book commences with the aspects relating to approaches to

criminology, criminological statistics, the methods of recording of crime statistics, the strengths and weaknesses, the changing trend and pattern in criminality.

The scheme of work in the domain of criminology is often befallen by the trap of language and semantics of sociology, psychology and/or social work and the presentation has been left devoid of any legal articulation. The legal scholarship to the criminological exercises is a must. For instance, the delay in justice delivery system and the associated criminogenic and juridical indicators relating to an offender, provokes one to study the criminal justice adjudication process from the very first intervention of criminal law to the accused person by initiation of the first information report/criminal complaint by the complainant and the injury suffered, the investigator and the investigation process, the prosecutor and the prosecution system, the judge and the criminal trial, the conviction and the sentencing process, the jail and the correctional administration, the release of the person from the system intervention and mainstreaming of the person into the society. This is all data generation and meaningful statistical analogies can be drawn to provide answers to the queries raised by criminologists. This analysis of legal intervention for societal maladjustment (along with its causes) and justification for state intervention has been the subject matter of criminological analysis. The criminal justice administration personnel are in close proximity to the subject of criminology and are in fact criminologists in action.

The chapter on criminal law and its administration tries to provide an overview of the system operation useful for non-legal professionals and the aspects of adversarial and inquisitorial models along with the nature of the criminal justice models in the common law and civil law jurisdictions which provide a guideline as to why a particular adjudication model should be preferred, the associated rights of the accused person, the status of victim, the procedural elaborative and mandates of evidence, the burden of proof and proof beyond doubt has formed the legalistic approach to criminology.

The criminological study includes approaches which are either individualistic, environmental, a reaction to crime, and/or punitive. The various theories and explanation of punishment are largely explained in terms of socio-psychological attributes and are essential to understand the language and semantics used by the pioneers of the subject like Beccaria, Lombroso, Goffarollo, in explaining the criminological components present, as there is paucity of legal analysis and the content analysis is also largely foreign.

The chapter on the therapeutic approach – prison reforms has been dealt with by way of a comparative analysis of the British and American models of prison system vis-à-vis those in India. The prison reform in India is presented by the author lucidly and the author has also supplied the appropriate legal language to make the study relevant to law students. The analysis provides information about prison reformation and correctional administration, from the Anglo-Saxon model to the modern Indian system, with contribution from criminal justice personnel –lawyers, prosecutors, prison authorities and most importantly, the judiciary. The

Supreme Court of India reached the prison forts *vide* Krishna Iyer J. and Bhagawati J. and others; the Constitutional *karuna* arising from the dictates of the judiciary particularly in the post-*Maneka* era humanised the system. The criminology of prison reform analysis is indigenous and provides pioneering scholarship in humanizing the prisoners. The author has provided a vivid account of the system and its developments. The judicial panacea to prisoners and analysis of theoretical postulates reflects the advancements made in correctional administration.

The juridical features of Probation of Offenders Act, 1958 and the Juvenile Justice Act, 2000 along with the 2006 Amendments in refining the juvenile justice system, form another important facet of criminology, reflecting the legislative policy, statutory direction and effective judicial application of the law for socializing the offenders, young adults and those minors who are in conflict with the law. The former statute provided the first indigenous opportunity in India to experiment with the welfare model's reaction to criminogenic situation. The latter statute is another important piece of research initiated in India in tune with the Convention of the Rights of Child, 1989. There has been a change in the strategies of the justice adjudication model calling it the juvenile justice model. In view of the child being in a difficult situation and in conflict with law, the institutionalization process is also differently experimented. The very use of the words, 'criminal' or 'delinquent' etc., with regard to children has fallen foul. This statute speaks about the new dimensions of criminology. The author has provided an understanding of the changing practices along with the emerging legal principles.

The historical aspects of crime and delinquency with regard to children in conflict with law ranging from the first experiments with the Apprentice Act 1850 and 1961, the Borstal School Act, 1876, the Children Act, 1925, 1956, and 1960 and the National Policy on Children, 1974 providing a classic study of the legal intervention studies and valuable information of the work that has been done in India. It is too early to say that the borstal school experiment is obsolete. Adolescent offender correctional institutions are prevalent and still in action with varying degrees of priority. The book misses out on this piece of link in its zeal in updating the contents.

Considering the range and variety of criminogenic structure and pluralist profile of India, crime control strategies and relevant police administration is one of the challenging facets of study. The police, with a large variety of assignments in hand, have to break through the attacks made to law and system. The police force as an organization has certain colonial characteristic features embedded inherently in the system that makes the study more critical. The book provides various aspects of the functions of the police, the nature and structure of the organization, classification and strategies, police powers and strength of the force, the limitations and legal control mechanism, criminal procedure, law regarding collection of evidence, police and community relationship, public confidence, various investigation models and aspects of police dealing with communal riot situations in some detail. Though this part of the study is done with a functional approach by the scholars from public administration, the theoretical component analysis is a pursuit of the criminologists. The Bureau of

Police Research Development has been providing the statistical inputs and calls for criminological interpretations for improving the system operation. The author made use of some of the data provided by Bureau. Yet, an independent research model for analyzing the criminological components of police administration in countering and abating crime needs to be considered. The author has duly noted the proposed police reforms and concluded the chapter. Police, as a law enforcement officer has been playing a pivotal role in the scheme of things of criminal justice administration system. The author has made an attempt to depict the structure, organization, role and function of the police in the quest of crime control. Police as a strong arm of the State, intertwines with certain niceties with law and enforcement. The zeal of the police in quelling crime is always appreciable but in the over-enthusiasm, the law expects that the state agency operate under defined norms. Police techniques and skills of investigation have always been controversial, causing blurs in a realistic study of crime and criminal methods. The assigned powers and the criminal procedure and the niceties enunciated in law of evidence are always considered as impediments to police investigation. In recent days the human rights mandates are very stringent, and a new dimension of study, police and human rights is fast emerging to humanize police and law enforcement mechanism. The author has reflected on the efforts for police reformation suggested by various committees including Malimath Committee.

Sentencing process, policies and practices in India originate from the second stage of criminal adjudication by the trial judge. As such, precedents form one major source of sentencing literature. Apart from the legislative proscriptions provided in substantive law and statutory prescriptions laid down in procedural laws, the judiciary as the first agent of interpretation and application of the law in justification to the crime committed, evolved legal principles such as balance of mitigating and aggravating circumstances and individualization of scheme of punishment. In some cases, the Apex Court has categorically articulated the philosophy in sentencing and penal liability. The author has discussed in detail the theories of punishment and the kinds of punitive approaches. The therapeutic approach, along with the rights of the prisoners has also been analyzed. The criminological issues of capital sentence are a curious area for research and analysis. The author has explained the range of issues in general and also the conflict of issues in India.

The adjudication of sentences is often supported by the assistance of the confidential information made available by the probation officer with regard to the offender. The Indian penal jurisprudence relies on the individualization of punishment and has taken the initiative for flexible techniques of probation. This technique of mainstreaming the wrongdoer has been considered in detail by all scholars with zeal. The author has provided a detailed analysis of the origin, concept, selection of the appropriate offender, public policy, supervision during probation and parole and the prediction table and more specifically the statutory analysis, confidentiality in probation report, parole discretion and probation legal consequence, evaluation of probation and parole and gamut of indeterminate sentence have been also discussed.

Organized crime is relatively a newer manifestation of crime, departing from the traditional contours of criminal law and individualistic notions of crime. The dynamics of analysis of organized crimes are essentially different as the crime clusters eclipse the individual criminal. The corporate identity provides a cover for the person behind the veil. The multiple criminal minds and complex *modus operandi* with high stakes from power-structure provide the criminal nexus to spread the criminal tentacles to far off and far reaching consequences. The range of organized crimes like political intermix, money laundering, corporate criminality, trafficking offences, smuggling of drugs, contrabands and illegal arms trade etc., levels up. These, being boundary-less crimes, are intra-national and transnational at the same time and as such pose new challenges. The criminological analysis needs to be different and innovative so as to fit the potential and inherent harm and injury they pose. Response studies need to be both indigenous and transnational, with convergence and cooperation of knowledge and sharing of technology from different jurisdictions. The author has provided a prefatory analysis and introduced the subject.

The author has discussed ‘sex-offences, prostitution and abortions’, where the chapter opens with a discussion on religion and moral elements of these offences. The three topics are different from their criminological perspective too. The discussions about homosexuality and related offences have been provided some space. With regards to neo-sexual politics, the topic has gone into the trap of discussions relating to connectivity of homosexual offences with HIV/AIDS cases. The aspects of sex-offenders and sexual-psychopaths deserve independent attention, which are often posed to criminologists either by law makers, investigators, adjudicators or correctional service providers. The cases involve bizarre intricacies with regard to crime commission, prevention and responses, thus, keeping the moral elements outside the realm of their discussion intermixed.

The study of violence provides an anomalous scenario peculiar to India associated with the plurality of lifestyle. The author has meaningfully delved into aspects of violence, discussed matters connected to terrorism, communal violence, violence against vulnerable groups (i.e., oppressed classes, women, children etc). The area as an emerging facet of criminological analysis has potential for innovative understanding and the author has opened up discussions for progressive initiations. The book contextualizes the topic very relevantly with judicial interpretations, linking public policy and established legal principles.

The author has also provided a preliminary reflection of a relatively new branch of study – victimology. Victimology has been developing almost independent of criminology in the sense that the latter is classified as being criminal-oriented and in stark contrast to a victim-centric approach of the wrong/injury analysis which would lead to restorative justice and settle the frontiers of imbalances intervened due to criminal wrong doing. The chapter provides an overview of the typology, the necessary apathy, the victims’ perspectives in abating crime and justice models. There has been some stress on compensatory jurisprudence and schemes of criminal law and procedural dictums of statutes.

The book offers insight into some of the ongoing criminological debates within the mould of legal scholarship. SMA Quadri has performed a difficult task by attempting to re-do the structure as provided by Siddique Ahmad without affecting the originality of the book. In most places, the author has been able to accomplish the objective as indicated in the preface of the book. The subjects of criminology and penology today have been enlarged reaching super-specialist analysis and an army of scholars from divergent fields of learning have shown interest in the subject. Legal research and legal analysis have also greatly contributed to the subject and the author has been too ambitious to contain the complete field of criminology and penology within the limited space. Much has been achieved for the book provides not only meaningful insight into legalistic ways of analysis but also provokes to take up from where it has left.

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