

CRIME AND CRIMINAL JUSTICE

"Social evolution implies some awareness of past
history and some reasoned guidance
fowards a future."

CRIME AND CRIMINAL JUSTICE

An outline of Criminal Sociology ; Criminology ; Penology ;
Criminal Jurisprudence and Law ; and
Criminal Investigation.

BY

Abul Hasanat, I. P.,

Superintendent of Police, Nonkhali, Bengal ;

Author of works on Sufism and Sex.

FOREWORD BY

Sir Hari Singh Gour, M.A., D. Litt., D.C.L., LL.D

Author of "The Law of Transfer in British India,"

"The Penal Law of India," "The

Hindu Code," etc., etc.

Rs. 4/5/- (8s. 6d.)

PUBLISHED BY
THE STANDARD LIBRARY.
Dacca, Bengal, India.

*Chief Distributors**
MESSRS. THACKER, SPINK & CO., (1933) LTD.,
CALCUITA.

ALL RIGHTS RESERVED.

PRINTED BY N. C. NAG ROY
At the Mill-Press, Noonkhali, Bengal.

*For agencies, arrangements are to be made with the Chief Distributors.

FOREWORD

I have gone through the advance copy of Mr. Abul Hasanat's work on "Crime and Criminal Justice" and note that he has focussed the international view of crime as well as its genesis in different countries, together with special reference to the great penal and criminal code of India.

The genesis of crime depends upon the policy of the state. Many of these crimes that were formerly punishable by death have passed out of the draconian rigour, while many new offences have come into existence owing to the change of society and its social order, and the threat to which, the State has attempted to counter.

The law of *mens rea* has equally undergone a change with the development of social order, but its fundamentals still remain.

The author of this work has rightly observed that the question of responsibility was inadequately taken into account in the early period when the cause of crime did not receive the deliberation it has since received, and the State was content in treating all offences as a menace to it. Not only was the offender punished, but also those who were considered nearest

FOREWORD

and dearest to him were both punished and deprived of their property.

Curiously enough, a still more extreme view of responsibility has been taken in a certain large European state in which the offender, if a member of a certain despised race, is punished by the expropriation of all property belonging to all members of that race, although they were completely ignorant of the offence or the offender.

This shews the extent to which human vendetta can extend. The doctrine of criminal responsibility in a better ordered state, is to treat the offender solely for his crime, and to award to him the punishment which serves as a corrective for him and sets an example to others similarly inclined.

The author has rightly devoted a chapter to the principles of criminal evidence which contains a good summary of the law administered in India as well as in many European countries.

It is impossible to enumerate the manifold problems that the Author has dealt with in his extremely readable book. I have no doubt that the work will command a large sale, both amongst scholars and students who study problems of criminology in India and elsewhere.

H. S. Gour.

PREFACE

In writing the preface, my first thoughts, naturally enough, turn to my own department. I visualize a happy future in which the officers and men of the police department will command the confidence of a gradually enlightened and steadily reconciled Indian public. It has been the care of the Provincial Governments to see that this state of affairs comes soon into being. I have pleaded for this department a place in the 'machinery of justice'.

I have no reasons to doubt its enlightened progress in view of the impetus now being given by eminent leaders like our present Inspector-General of Police, Mr. A. D. Gordon, C. I. E., I. P., J. P. He, for his part, has been constantly encouraging more thinking and studying and his own notes, articles, and books have served as inspiration to me in the present studies.

As the eminent criminologist, Enrico Ferri, has observed, police and prison officers should widen their knowledge of criminal biology and psychology so as to be more efficient in the

FOREWORD

and dearest to him were both punished and deprived of their property.

Curiously enough, a still more extreme view of responsibility has been taken in a certain large European state in which the offender, if a member of a certain despised race, is punished by the expropriation of all property belonging to all members of that race, although they were completely ignorant of the offence or the offender.

This shews the extent to which human vendetta can extend. The doctrine of criminal responsibility in a better ordered state, is to treat the offender solely for his crime, and to award to him the punishment which serves as a corrective for him and sets an example to others similarly inclined.

The author has rightly devoted a chapter to the principles of criminal evidence which contains a good summary of the law administered in India as well as in many European countries.

It is impossible to enumerate the manifold problems that the Author has dealt with in his extremely readable book. I have no doubt that the work will command a large sale, both amongst scholars and students who study problems of criminology in India and elsewhere.

H. S. Gour

PREFACE

In writing the preface, my first thoughts, naturally enough, turn to my own department. I visualize a happy future in which the officers and men of the police department will command the confidence of a gradually enlightened and steadily reconciled Indian public. It has been the care of the Provincial Governments to see that this state of affairs comes soon into being. I have pleaded for this department a place in the 'machinery of justice'.

I have no reasons to doubt its enlightened progress in view of the impetus now being given by eminent leaders like our present Inspector-General of Police, Mr. A. D. Gordon, C. I. E., I. P., J. P. He, for his part, has been constantly encouraging more thinking and studying and his own notes, articles, and books have served as inspiration to me in the present studies.

As the eminent criminologist, Enrico Ferri, has observed, police and prison officers should widen their knowledge of criminal biology and psychology so as to be more efficient in the

FOREWORD

and dearest to him were both punished and deprived of their property.

Curiously enough, a still more extreme view of responsibility has been taken in a certain large European state in which the offender, if a member of a certain despised race, is punished by the expropriation of all property belonging to all members of that race, although they were completely ignorant of the offence or the offender.

This shews the extent to which human vendetta can extend. The doctrine of criminal responsibility in a better ordered state, is to treat the offender solely for his crime, and to award to him the punishment which serves as a corrective for him and sets an example to others similarly inclined.

The author has rightly devoted a chapter to the principles of criminal evidence which contains a good summary of the law administered in India as well as in many European countries.

It is impossible to enumerate the manifold problems that the Author has dealt with in his extremely readable book. I have no doubt that the work will command a large sale, both amongst scholars and students who study problems of criminology in India and elsewhere.

H. S. Gour.

PREFACE

In writing the preface, my first thoughts, naturally enough, turn to my own department. I visualize a happy future in which the officers and men of the police department will command the confidence of a gradually enlightened and steadily reconciled Indian public. It has been the care of the Provincial Governments to see that this state of affairs comes soon into being. I have pleaded for this department a place in the 'machinery of justice'.

I have no reasons to doubt its enlightened progress in view of the impetus now being given by eminent leaders like our present Inspector-General of Police, Mr. A. D. Gordon, C. I. E., I. P., J. P. He, for his part, has been constantly encouraging more thinking and studying and his own notes, articles, and books have served as inspiration to me in the present studies.

As the eminent criminologist, Enrico Ferri, has observed, police and prison officers should widen their knowledge of criminal biology and psychology so as to be more efficient in the

PREFACE

social task of their treatment of human criminals.

An eminently laudable recommendation of the Indian Jails Committee (1929-30) is that every jail will have a full-time superintendent well-versed in the principles of penology, other subordinates having at least an elementary knowledge of the science. The United Provinces Jail Reforms Committee the other day also, while accepting the recommendation of the Experts' Committee about the establishment of a cadre of wholetime superintendents, have not agreed that these officers should be recruited from amongst medical graduates, thus giving *preference to those having qualification in Criminology and Penology*. It is a singularly happy feature that Ministers-in-charge, Inspectors-General of Prisons and other prison officials are drawing public sympathy and attention to the grave problems of dealing effectively with criminals. I have devoted considerable space to penology and tried to deal with it in all its aspects.

Sir Hari Singh Gour aptly observed that the study of Criminal Law in the Law Schools of this country is regarded as dry-as-dust, but if the present writer has been able to impart

PREFACE

to the subject and its broad features some degree of the fascination he has himself felt in associating the subject with the great problems of sociology, he will consider his work well-done.

Ferri observed that the practical means of securing fundamental reforms of the judicial bench ought to begin with the organization of the University, for in the course of the faculty of law it will be necessary to introduce a more vigorous and modern stream of social and anthropological studies which must also eventually put new life into the ancient maxims of the law. I have had a great deal to say on the machinery of justice and I have purposely included the criminal investigator in the machinery itself. I have treated of criminal investigation from a new angle.

Prevention by the police and the public would require a volume by itself and the subject is too vast to be squeezed into a general treatise like this. I have only touched the fringe of the subject.

I am immensely indebted to Sir Hari Singh Gour for the favour of a foreword to this book. His eminence among Indian jurists and his

PREFACE

authorship of various works on law are too well-known to need a mention by me here.

I am also indebted to Mr. G. H. Mannooch, I. P., J. P., Deputy Inspector-General of Police, Bengal, and Mr. H. G. S. Bivar, I. C. S., District and Sessions Judge, Bengal, for the very kind favour they have done me by going through considerable portions of the draft and offering valuable advice.

The illustration of finger-prints is adapted from one quoted by Nigel Morland in his valuable book, **The Conquest of Crime**.

Although I have drawn from my experience in the Police Department and from that of my friends, the views and opinions expressed in this book are entirely mine. The academic discussions will naturally transcend experiences of individuals, although many, and rest on comparative studies of world conditions, past and present.

It was very kind of the various Police, Law, and Sociological Magazines and Journals, like the Bengal Police Magazine, the Indian Police Gazette, the Criminal Law Journal of India, Lahore, the Nagpur Law Journal, the Aryan Path, Bombay, among others—journals with wide circulation in and outside India, to have

PREFACE

published advance extracts from this book with a view to drawing general attention to the grave problems the book has attempted to discuss.

The police, judicial and prison officers, lawyers, legislators, and other enlightened agencies deserve to be heartened and encouraged by the thought that they have behind them the interest, the sympathy, and the goodwill of the public at large. If the present work can enlighten the public to any extent with the problems of sociology it has to face but can shirk only at grave risks, the writer will feel comforted. It has given the writer immense fascination to travel with his readers round and round the earth and up and down the ages.

Noakhali—May, 1939.

Abul Hasanat.

CONTENTS

1.	The Nature of the Problem of Crime	17—90
2.	The Nature of the Criminal ...	93—123
3.	The Nature of the Criminal (contd.) ...	124—145
4.	The Psychology of the Criminal ...	146—181
5.	Factors in Criminality in the Environment	182—240
6.	The Types of Criminals	241—247
7.	Juvenile Criminality	248—275
8.	Female Criminality	276—292
9.	The Habitual Criminal	293—301
10.	Criminal Classes and Common Swindlers of India	302—310
11.	The Nature of Crime	313—337
12.	The Extent and Types of Crime ...	338—362
13.	Forms of Crime	363—368
14.	The Origin and Evolution of Punishment	371—375
15.	The Forms of Punishment ...	376—408
16.	The Institution of Imprisonment ...	409—424
17.	Review of Penal Methods	425—481
18.	The Efficacy and Ethics of Punishment	482—508
19.	Criminal Law : Penal Codes ...	511—543
20.	Criminal Responsibility	544—570

CONTENTS

21.	Machinery of Justice	...	...	571—630
22.	The Principles of Evidence	...	...	631—656
23.	Criminal Investigation	...	...	657—678
24.	Principles underlying Criminal Investigation	...	...	679—753
25.	General Remedies, Prevention, and Conclusion	...	...	754—768
26.	Appendix A : Criminal Classes and Common Swindlers in India	...	...	1—15
27.	Appendix B : Survey of Specific Forms of Crime : A Critical Appreciation of the Indian Penal Code	...	...	16—132
28.	Appendix C : Some Comparative Figures of Crime	...	...	133—138
29.	General Index	...	...	907—915