

Fall 1940

## Book Reviews

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

---

### Recommended Citation

Book Reviews, 31 *Am. Inst. Crim. L. & Criminology* 331 (1940-1941)

This Book Review is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in *Journal of Criminal Law and Criminology* by an authorized editor of Northwestern University School of Law Scholarly Commons.

## BOOK REVIEWS

A. R. Lindesmith [Ed.]

**THE DILEMMA OF PENAL REFORM.** By Hermann Mannheim, with a preface by A. M. Carr-Saunders. London: George Allen and Unwin, 1939. Pp. 238. \$2.25.

Professor Mannheim's book starts with a rapid survey of the economic factor in penal history. He especially stresses the point that at least one event, the introduction of solitary confinement, cannot be given an economic interpretation. It seems to me that M. has narrowed the problem too much, when he insists on the undeniable fact that the minds of the men who invented the Pennsylvania system were not influenced by motives of thrift. Not whether these men were inspired by economic motives but to what degree the expansion of this system can be explained by economic factors, seems to be the point in question and here the answer by no means appears so clear-cut.

But M's chief concern is with one especially pernicious effect of the economic factor on the penal system. His whole book centers around the attempt to eliminate the "principle of less eligibility," as it had been called by the Webbs, from its dominant position in our penal fabric. This principle in its extreme form means that the ordinary condition of a convict should be kept below the standard of the lowest strata of free people. Attenuated to a "principle of non-superiority," already formulated by Jeremy Bentham, it allows the convicts standard not to be more eligible than that of the poorest class of free subjects. The predominance of these viewpoints in the formation of the prison system cannot be denied. That the author's analysis is chiefly concerned with Great Britain seems to be a rather fortunate coincidence since in no other country in the world have all the particular problems pertaining to this question found so much attention by Royal commissions, writers, and prison authorities. But the author is far from neglecting the writings and legislation to be found in other countries. M. is quite justified when he emphasizes that reform as a dominant aim of punishment is altogether incompatible with further insistence on the principle of less-

eligibility. In his two central chapters on the economic and social implications of this principle he follows therefore each one of their manifold stratifications in the penal system. The question of prison food, prison employment and wages, the problem of probation and aftercare, the methods of "destigmatization" as he calls the attempt to efface the social and legal after-effects of punishment and even the very often neglected social aspects of fines and the search for substitutes for them are all exhaustively treated from the same viewpoint and purpose: to ban considerations of less-eligibility and to broaden the convicts chances of successful reintegration into society.

In this fight the author goes so far as to advocate special consideration of social status because rigid adherence to the principle of less-eligibility makes punishment more severe for the members of the better situated classes. Whatever may be the merits of this viewpoint, already discussed by Beccaria, it seems unlikely that any democratic regime would be willing to forfeit the effect of the psychological satisfaction which its average citizen derives from the feeling that an erstwhile bank-president can sometimes be brought to eat from the tin bowl shoulder to shoulder with a less refined thief. We especially mention this marginal case where many of us may agree that the psychological value derived for the body politic as a whole may compensate for our knowledge that one individual will suffer proportionately much more than another.

I am frankly skeptical as to how far the dilemma of our whole penal system is susceptible of the solutions offered by M. That penal reform will have a rather difficult stand in the times to come, is acknowledged implicitly by the author himself in his last chapter, when he refers to the two current theories of Durkheim and Sorokin. Criticizing both from a purely empirical standpoint, he comes to the conclusion, well borne out in my opinion by the facts, that unequal penal treatment is characteristic of our present heterogeneous society. Unequal penal treat-

ment means that the question "how can this man be moulded so that he will be fit to live in our society?" will find only slight consideration. It will be almost entirely over-shadowed by questions of political, and last but not least, fiscal expediency, which dictate extreme leniency in one set of cases and for one group of persons and utterly destructive harshness in other cases. The principle of less-eligibility comes from the world of the Poor Law and is based on the somewhat antiquated idea that differentiations of status must, even in the lowest sphere, be expressed by graduation in degrees of starvation. But the penal policy now in vogue in an increasing number of countries is far from following the roads of penal reform proposed by the author. While retaining the principle of less-eligibility it has added to it a new and still less desirable feature; It treats persons defined as criminals as enemies of the state to be utterly destroyed.

OTTO KIRSCHMEIER.

International Institute of Social Research,  
New York City

KRIMINALSTATISTISCHE UND KRIMINALÄTIOLOGISCHE BERICHT. By Ervin Hacker. Miskolc, Hungary: Stephan Ludwig Buchdruckerei, vol. 1, 1939, vol. 2, 1940, vol. 3, 1940. Pp. 36, 42, and 44.

For a long time Professor Hacker has devoted his energy to elaborating the bases of a systematic comparison of international criminal statistics. The most recent fruits of his laborious endeavors are reports on and interpretations of important criminality data of different European and a few American and Asiatic countries. In the introduction to these reports, in which the author describes the methods used, he does not underestimate the difficulties of such an undertaking, but he is confident that careful analysis will reduce them considerably.

I fully agree with the author, that, for comparative purposes, trespasses have to be eliminated and a few representative felonies and misdemeanors to be chosen. This method has found universal recognition for a long time—Professor Timasheff being a lonely dissenter. But it is open to serious doubts whether figures of convictions, which the author uses exclu-

sively, give a sufficient basis for comparative purposes and whether offenses known to the police should not be chosen instead. The influence of the number of amnesties increasingly resorted to in different countries, the general *nolle pros*, and the changes in practices of prosecution and of the court could thus largely be eliminated. Such a method would, for instance, meet a serious objection which has to be raised against the exactness of the author's calculation and interpretation of age distribution within the criminality figures. His method does not take into consideration the fact that in many countries the youthful offender, when his guilt has been established, will be disposed of in various ways without a formal conviction being entered in the records. The distinction which, in the statistics given by Professor Hacker, separates the age groups around 20 has therefore to be reduced to a distinction in methods of treatment and not in actual criminality. Similar doubts arise in regard to his treatment of the problem of antecedents. Before using the respective national statistics the author should have ascertained for all countries in question whether convictions relating to trespasses and the increasing number of administrative misdemeanors are contained in the recidivism figures, as this would destroy their usefulness for comparative purposes. Furthermore he should have determined in which countries and after what intervals criminal records are excluded from further use by extinction of the conviction. If the answers to these questions had been too difficult and too intricate, it would have been better to compare recidivism figures only in so far as data for similar groups of cases were available.

If part of the results must therefore be used with the utmost caution, his results are noteworthy in questions where the method of statistical approach is less vital. His inquiries, for instance, confirm the thesis, sometimes attacked without justification, that foreigners in European countries have a much higher criminality rate on account of their underprivileged economic and political situation—the only exception being Switzerland after 1934, for reasons which, as Hacker very accurately shows, only demonstrate the general rule. Furthermore, his results deserve special

attention in regard to differences and changes in the ratio of crime participation of the sexes, as well as the almost uniform tendency to a higher crime rate among divorced persons. Unfortunately much greater differentiation in the available statistical material would have been necessary in order to obtain significant results as regards the influence of economic and social status on crime developments.

As regards the interpretation of the figures this reviewer is often unable to follow the author. If the Hungarian criminality figures are higher for the Hungarian than for the German part of the population that seems not to be a consequence of a difference in temperament, as the author contends (2, p. 24), but of the much more comfortable situation of the German nationalities in Hungary. If the crime participation of people with college education is much smaller in the Netherland than that of people with elementary school education this is not a proof that higher education makes for a better formation of human personality, immunising individuals against criminality. The author's own country, with its very high criminality figures for people with higher education (2, p. 40), refutes this thesis. The Netherlands intelligentsia, in a privileged position followed the upper class pattern, recently described by Professor Sutherland, and only rarely did its members become "acknowledged" criminals. In contrast the Hungarian post-war intelligentsia, having the characteristics of a proletarian intelligentsia, was bound to come into incessant conflict with the authorities. The increase of embezzlement and forgery can surely not be regarded exclusively as a consequence of the increasing degree of civilization. This may be a possible interpretation of the increase in Siam (1, p. 35)—even here I should be very cautious and search for a more concrete interpretation. The ever increasing number of cases of embezzlement and forgery on both sides of the Atlantic Ocean seems more related to the rather uncomfortable position of professional people, white collar workers, and small business men in our economic set-up than to a higher degree of civilization and a consequent refinement of criminality.

At the end of the 3rd report the author has inserted the beginnings of a general

bibliography in the field of criminology. In my opinion, the readers would profit more if the subsequent reports were to include, with the analysis of each country, a list of references, now lacking, to the articles and books which deal with the respective criminal statistics.

OTTO KIRCHHEIMER.

International Institute of Social Research  
New York City.

JUVENILE DELINQUENCY IN MASSACHUSETTS  
AS A PUBLIC RESPONSIBILITY. Boston:  
Massachusetts Child Council, 1939.  
Pp. xii + 196. \$0.50.

This very practical and readable study owes its inception to the Massachusetts Child Council, which mobilized the interest and special training of 161 men and women who conducted the investigation. Motivation for the project, however, came from the well-known study of 1,000 juvenile delinquents made by Professor Sheldon and Dr. Eleanor T. Glueck, as part of the Harvard Law School Survey of Crime and Criminal Justice in Boston. The general problem underlying the inquiry was stated thus: Can the Commonwealth of Massachusetts tolerate "the steady procession of children toward crime and its terminal in the penitentiary?"

The survey committees were organized around six topics: (1) Legal Aspects of Juvenile Delinquency, (2) Institutional Treatment of Juvenile Delinquents, (3) The Foster Home and the Delinquent, (4) Clinical Organization and Service, (5) Provisions for Mentally Handicapped Delinquents, and (6) Responsibility of the Schools in Relation to Delinquency.

The report is essentially a record of the discussions and recommendations of the six investigating committees, and was submitted "respectfully, seriously, and confidently" to the people of Massachusetts, with the challenge: Steady production of criminality out of juvenile lives should not be tolerated in Massachusetts. It may, indeed, not be entirely avoidable, but it is reducible."

An important outcome of this general and common-sense survey of juvenile delinquency in Massachusetts was the creation of a state commission to study the development of a state-wide juvenile court system. At the time the report was printed a commission of seven members, appointed

by the two branches of the legislature and the governor, was beginning its work.

The report is well-written, and contains an excellent body of statistics regarding juvenile delinquency in Massachusetts; a comparison of approved standards with current methods in Massachusetts and other states; and a brief summary of the juvenile court laws of the leading foreign countries.

Notwithstanding its factual excellence, however, it leaves much to be desired from the standpoint of educational publicity.

ARTHUR L. BEELEY.

University of Utah.  
Salt Lake City.

---

DESIGNS IN SCARLET. By Courtney Ryley Cooper, Boston: Little Brown and Company, 1939. Pp. 372. \$2.75.

Mr. Cooper, that well-known story writer who, as a boy, ran away from school and traveled with a circus, has described, in vivid terms, the story of present-day white slavery in the United States. Motivated by his friend, J. Edgar Hoover, he took a year off to inquire into the true status of "the harlot's heaven." To do this he made many an excursion into the underworld itself, assuming a dual role—that of a reporter assembling facts for a book, plus that of a federal informer regarding the infractions thus uncovered.

He did not set out, he says, to confirm the time-worn thesis that youth is headed for hell. As a matter of fact, there is a minimum of censure for youth to be found in the conditions he discovered. It is, rather, a study in the cruelty and selfishness of adults. Mr. Cooper avers that he has yet to find "a bawdyhouse, a taxidance hall, tavern, a Dine and Dance bagnio, a 'Get-Acquainted-Club,' a sex-liquor purveyor or any other form of enterprise where thrives the procurer and the panderer, that is owned, or operated, or even managed by a minor." On the other hand, the entire document is an indictment of the moral flabbiness of the sophisticated teen-age of our day, a condition which, he estimates, reaches into more than half of all the homes in America.

After analyzing the "crazy" things young people do, he describes the pitfalls of the dine-and-dance institution, which is an

unhappy liaison of liquor, sex and gambling. These three factors, and the automobile, constitute youth's greatest temptations. Successively, he describes the morbid appetites of youth, which express themselves in the jitterbug contest and other superficial enjoyments. With equal cleverness and effect, Mr. Cooper cites case after case of the gambling, venereal disease, and homicide patterns of youthful misadventure.

The author warns us from his study of America's "joy" district, that the glaring disregard of law and decency shown by those who profit from the manufacture and sale of alcohol, portends the return of that other monster, prohibition. Continuing his sad tale, he describes the nefarious practice of the auto camp, which is so often merely a brothel. He then describes the activities of the "Get-Acquainted-Clubs" and the marriage bureaus which operate in this country. To achieve this information he joined nearly every "get-together, lonely-hearts, marry-rich, pen-pal and get-acquainted club in America." The evidence thus assembled, in less than two months, was so large that twelve packages were necessary when it was finally shipped to the Post Office Department in Washington,—"Obscenity by the bale," he calls it.

The author describes with frankness but adds nothing new to the well-known story of the abortion racket. Similarly, he deals with the pernicious and illicit sale of obscene pictures among high school boys and girls. Another chapter is devoted to a series of psychopathic sex cases, particularly the proverbial homosexual. One of his best chapters is entitled, "Why Work for Pennies?"—a detailed description of the organized white slave traffic now operating in many American cities.

In a concluding chapter, entitled, "So What?" Mr. Cooper advances his view of the cause and the remedy for the condition he so vividly describes. At this point the scientific criminologist will differ seriously with Mr. Cooper. In the first place, he places too much blame upon women as a class: "Since some women undoubtedly are responsible for many of the conditions existing, it should be the duty of all women to seek to provide a remedy," he argues. Yes, but it is no more the duty of women than of men to

cope with the problem of white slavery. In the proverbial fashion, he also blames many of these conditions upon parental laxity. He likewise contends that we need a new and different kind of juvenile court—something stronger than the “wishy-washy paternalism” which all too often prevails. An oblique indictment is made of the school, because of the stupid and feeble way in which the problems of sex are taught. The church is also excoriated for its failure to make a more “heroic” attempt to regain its position as “a pillar of morality.” To the bland statement that murder should be made a federal offense, and that crime would thus decrease 25 per cent within a matter of months, serious exception may be taken. The author concludes by arguing for strict regulation and segregation of prostitutes, as being far better than conditions as they are.

The book, nevertheless, is an admirable and vivid restatement of an old problem, one which, unfortunately, the professional educator has shamefully forgotten. It is hardly a book for young people themselves to read, although something like it should be required reading of every adolescent. It is, nevertheless, the sort of thing which any high school parent-teachers' association might well consider with profit, in a series of frank and forthright discussions of a subject of paramount concern to the youth, the parent, the educator, and the community as a whole.

ARTHUR L. BEELEY.

University of Utah.  
Salt Lake City.

---

**GIRLS ON CITY STREETS—A STUDY OF 1400 CASES OF RAPE.** By Jacob A. Goldberg and Rosamond W. Goldberg. New York: Foundation Books, 1940. Pp. 358. \$2.50.

The authors of this book have attempted three distinct tasks and in so doing have left themselves open to numerous attacks and criticisms. First, with a highly dramatic and moral tone, they have attempted to arouse the conscience of the public and community leaders to the numerous pitfalls which surround young adolescent girls in a large city. Secondly, they have tried to study scientifically 1400 cases of rape which have come before the courts of New York City. Finally, with a view to therapy, they have outlined and dis-

cussed various schemes for the protection of young girls who grow up in the impoverished and disorganized areas of a large urban center. The numerous case histories presented concerning the sexual contacts and experiences of these young adolescent girls reveal in a very remarkable fashion the sordid and immoral conditions which have surrounded them and should do much towards arousing the public and the community leaders. On the other hand, however, the scientific aspect of this work leaves much to be desired. While they make much of “agencies of moral risk” such as certain types of motion pictures, salacious literature, cheap dance halls, taverns, roadhouses, and the indiscriminate use of alcohol as “causes” of the rape and sexual delinquencies of these young girls, they fail completely to make any convincing scientific case for them as “causes,” particularly, no doubt, because of the lack of any control group. The statistical tabulations concerning age of court appearance, country of birth, school grade reached, number of roomers in the home, age at first sex experience and places where sex violations occurred have shed no light whatsoever on the factors involved. This study would have been improved considerably if careful and clear distinctions had been made between rape, statutory rape and sex delinquency and if the experiences of these young girls had been studied against the sociological background of changes in the sexual mores, increasing urbanization and a wider dissemination of birth control knowledge among adolescents.

The suggestions for prophylactic measures against sordid and unwelcome sexual experiences include sexual education for the parents, sexual instruction to young people in the public schools, rebuilding and the reinforcement of broken homes, elimination of overcrowded family situations and better control of the feeble-minded and mentally deranged persons in the community. These suggestions have been made countless times in the past by many leaders of thought and action and within our cultural-ethical framework no one would think of repudiating them as undesirable. However, it is not unreasonable to suggest that before any far reaching claims can be made for any of them, they might be tested experimentally to

determine whether they can justify the claims often made for them.

The authors recognize the necessity for careful study of the men who violated these girls. However, one cannot help but notice, as one reads the numerous case histories, the extreme callousness with which the girls themselves permitted sexual intimacies and how they often encouraged them. All of this cannot be explained away on the basis of ignorance or low intelligence. A more adequate scheme than the authors have developed for classifying these various cases is needed. While awaiting a social and economic reorganization of society, the authors find it necessary to place their reliance upon the above named age-old remedies. Progress in the direction of a social millennium will be impeded, however, by slipshod scientific studies.

H. WARREN DUNHAM.

Wayne University.

---

**THE PLANS OF MEN.** By Leonard W. Doob. New Haven, Conn.: Yale University Press, 1940. (Published for the Institute of Human Relations). Pp. 411. \$3.00.

The title of this book scarcely gives a clear idea of its contents, nor does it convey an adequate conception of the broad scope of its discussions. The reader quickly learns, however, that he is in for an intensive review of the "plans of men" from primitive times to contemporary crises.

The discussion ranges from a description of the early discoveries of individual man through developing group cultures to the organization of social and governmental activities. The principal contributing factors in promoting the plans of man are portrayed, as well as the limiting elements that tend to frustrate his progress.

The author makes a comprehensive survey of man's equipment for planning and the insight afforded him in the sciences of Biology, Anthropology, Sociology, Economics, Psychology and Political Science. While this volume is highly interesting reading to all students of these sciences, most of the material pertains only indirectly to the subject of criminology, with which this Journal is primarily concerned.

All students of Criminal Law, however, will find the chapter on "Political Activ-

ity" (Pages 63-75) of very special interest. In this chapter the individual's relation to the state is considered in connection with the development of customs and laws; together with both the theory and practice of the courts.

The principal theme elaborated by the author in this volume has to do with the planning of life toward a desirable goal. To do this Governments and their administrators must have in mind a particular people to be affected, as well as their physical and social environment, and the goal to be achieved. For the group and the individual, history and past experience should be a tentative but not a conclusive guide in planning for the future.

All the factors of self-discipline as well as the planned economy of civic groups are here considered. How to help the individual to develop controlled liberty and initiative without license is the ever present problem of a wise government. The misuse and abuse of this function, the author implies, is manifested in the current growth of Dictatorships in various forms. Conversely, the human reaction to the over-exercise of economic planning often leads to license and criminality.

The question is, according to the Publishers of this book: "How should science help men to solve their problems? With our present knowledge, is it possible for the individual or society to execute plans successfully? *The Plans of Men* is not the answer to all these questions, nor a blue-print of Utopia, but it does suggest where the answers may be found."

F. EMORY LYON.

The Central Howard Association.

---

**PSYCHOLOGICAL AND NEUROLOGICAL DEFINITIONS OF THE UNCONSCIOUS.** By Samuel Kahn. Boston: Meador Publishing Company, 1940. Pp. 219. \$2.00.

The intention of the author to find a mediating point between the various basic disciplines concerned with psychotherapy converges on a discussion of the unconscious. The author presents Freud's orientation to psychoanalysis and historically delineates the philosophical and psychological conceptions of the unconscious. As in many other works in psychiatry the cultural content of the unconscious as well as the changing character of human nature

are either overlooked or misunderstood." ". . . the unconscious is basically animalistic and instinctual" "man does not change nor does nature change" (p. 19). This contention is definitely not in the trend of the newer developments of psychological thought and its objective findings.

The dictionary in the second part of the work, intended as a glossary, comprises the definition of five hundred and ninety-one arbitrarily selected terms in neurology, psychiatry, psychoanalysis and psychology. In addition to some errors, these definitions add practically nothing either in originality of synthesis or clarity of statement to any of the above mentioned disciplines. The some fifty-seven pages of bibliography represent an indiscriminate quantity rather than consistent, relevant quality.

The work on the whole appears to be hastily written and in need of vigorous re-editing.

S. KIRSON WEINBERG.

University of Chicago.

---

HELL ON TRIAL. By René Belbenoit. New York City: E. P. Dutton and Co., Inc., 1940. Pp. 317. \$3.00.

It is popular just now to find fault with the French government, accusing it of everything from laziness to complete corruption in an effort to explain the capitulation of France to Germany. To a man like Belbenoit, who devotes himself in this and his preceding book, "Dry Guillotine," to exposing and condemning the legal system of France as applied to the penal colony in French Guiana, popularly known as Devil's Island," these criticisms must seem justified. He might well argue that a form of government which allows such conditions to go on year after year, through succeeding administrations of the Right and Left, against all principles of justice and humanity, is afflicted with a disease that would in the end cause its downfall.

Belbenoit's own experiences with this system begin with his sentence to the penitentiary at Cayenne in 1929, after one

of his numerous attempts at escape. He had only ten months left of his original sentence, and through the efforts of Governor Siadous, more humane and intelligent than the preceding governors, he was put to work classifying the colonial archives. This gave him an excellent understanding of the whole sorry history of the colony, knowledge which he later put to good use in his books. When paroled for a year at the expiration of his sentence, he resolved to return to France and petition for a full pardon so that he might enjoy the advantages of full citizenship and be free to earn his living when and where he chose. (This is ordinarily denied the freed convict under the system of "doublage," which requires him to stay in Guiana as a "libéré" for a period as long as his original sentence, or for life, if his sentence was for eight years or more.) His return to France, the denial of his repeated application for the restoration of his citizenship, his return to St. Laurent and sentence to three years at hard labor, and his desperate efforts to earn his passage money as a "libéré," which were finally crowned with success, form a vivid and terrifying tale, the implications of which cannot help but condemn the whole system from start to finish. His own story is interpolated with recitals of the wrongs done to his fellow convicts. The boiling indignation he shows over their treatment, and his complete identification with the victims lead one to think that he may, at times, be taking their stories too much at face value. (The jacket describes the book as "non-sensational," but the constant and annoying use of exclamation points has just the opposite effect on the reader.) Nevertheless, for the system as a whole, as he pictures it only too graphically, not a good word can be said. It is to be hoped that should French Guiana become a mandate of the American nations during the course of the war, as part of a general scheme to protect this hemisphere against German penetration, those administrating the mandate will refuse to countenance the conditions that now exist.