CHAPTER V - CONCLUSION

In the foregoing pages a modest attempt has been made to present in a full perspective the problem of recidivism, which impresses one as the general effect of criminal punishment of whatever description under the Indian Penal Code.

It is rather a strange conclusion to reach when the society commonly thinks that severe punishments are good for the criminals and serve them right. But criminal records point out in quite a different direction. The paradox of the criminal law here as well as elsewhere is that punishment does not defeat crime but crime defeats punishments. All old thinking on the subject of crime and punishment is rudely shaken by the hard realities in the field of crime in this country. Recidivism has posed the most serious problem to the criminologists of today, all over the world, and we in this country cannot afford to be complacent any longer. The concept of crime has undergone a radical change and crime causation has become a very complex social problem. The problem is so vast that it reaches the domains of politics, economics, sociology, and all fundamental relations of human society. To enter into the causes of crime is practically to go to the bottom of the structure of the needs of the community. This aspect -
of our discussion only shows that law alone, by itself, cannot control crime quite successfully, and that a very comprehensive effort on several fronts is needed towards its effective handling.

The juristic analysis of the purposes of punishment, together with the historical evolution of these purposes, is a vitally important subject in assessing the effects of punishments. Even as regards these juridical values, it has become clear nowadays that they are not of the same significance as before and, therefore, require a far-reaching modification. Deterrence and retribution are in a way losing their hold and reformation is establishing itself as the main purpose of criminal punishment. The emphasis is shifting from the crime to the criminal and from the punishment to the correctional treatment. Against this background the examination of the position of the penal laws in this country is an examination of a penal system of the old type - conservative in mould and object. It is very despairing to see that this law today does not have the desired effect on the criminals. On the contrary, it has almost lost its deterrent character and driven the offenders to careers of crime as die-hard recidivists and habituals.
But this is not the only country that has seen this trend in the field of crime. Many other countries, with all their resources of reform, are facing this growing tendency to recidivism.

The only solution to a problem like this lies in realizing (1) the need of changing the criminal law, (2) the need of making the society conscious of its responsibilities towards the ex-prisoners and (3) the need of making efforts on the national level for the amelioration of conditions of social existence, and (4) finally the need of giving maternal care towards the correctional treatment of the offenders during the period of their punishment for the wrongs they have committed against the society. This is a very huge task and one knows that no human endeavour will carry it to perfection. But there are several attempts that can be made to reduce the terrific intensity of the problems of recurrent crime. The immediate step that can be taken is the amendment of the criminal law and procedure. How this has been attempted in the U.S.A. is well illustrated by the Draft of the Model Penal Code prepared by the American Law Institute (1962). A glance at its contents shows the stretch of the reform that has to be contemplated to meet
the urgent needs in this respect. The whole Code is divided into 4 parts:

Part I - General Provisions deals with general principles and Liability, Justification, Responsibility, Inchoate crimes, Authorized Disposition of offenders and Authority of courts in sentencing...

Part II deals with Definitions of Specific crimes...

Part III - Treatment and Correction ... is the most striking innovation. It lays down provisions for suspension of sentences, Probation, Fines, short-term imprisonment, long-term imprisonment, release on parole and loss and restoration of rights incident to conviction of imprisonment. It is interesting to see how, under short and long term imprisonments, provisions are made for classification, medical care, food, clothing, labour, remissions, discipline and control, programme of rehabilitation etc.

Part IV deals with Organization of Correction under which the topics dealt are - Department of correction, Board of Parole, Administration of Institutions, Division of parole, Division of Probation and Parole and division of Probation.

The other, and the most important and essential, change has to be effected in regard to the society's attitude towards criminals. Society
must try to understand that a criminal is an erring citizen, and unless sympathetic treatment is given to him, he will revert back to crime. Instead, the enlightened member of the society stigmatises a prisoner, advocates hard punishment for him and is not prepared to make any attempt whatsoever to accept him back in society. The society should give a thought to the fact that as social structures become complex, as the stresses and strains upon individuals become more acute, the number of prohibitions increases and so does the number of crimes. Arthur K. Berliner in an article, *Some Aspects of Morality in relation to crime*, says - "All societies have to deal with the deviant. No culture is so completely satisfying or flexible as to accommodate successfully the entire range of human reactions... The number of aberrants and the methods of handling them vary from time to time, place to place and society to society". Therefore every society has to deal with crime and it should do so with sympathy and understanding. The work change in the correctional field in India has been rather slow, not because of lack of knowledge or the absence of a well-defined equipped correctional philosophy, but because of lack of public co-operation and participation and education of the people. In other fields we tend to accept the changes and the techniques often without questioning. But we have not been
able to implement the correctional philosophy developed about a century back. The society is not prepared to take any risk with the offenders about whom it has conflicting opinions. It has not yet fully accepted that an offender is sent to prison or a reformatory for treatment and preparation for his re-insertion into society. It does not give criminals a chance to improve, as it does not accept them. A majority of casuals realise their mistake in having committed the offences and we swear to be better people. With this thought in mind they get out of the prison. When they are released, they go in search of work and once again a social handicap mars their free life. This handicap has been repeatedly referred to by all the officers interviewed. The lack of society's interest in this group of human beings is not entirely its own fault. The department of corrections is the one department which gets the least publicity. Seldom one finds a news item in daily papers about corrections. On the other hand, escapes from institutions are given wide publicity. Naturally with this knowledge the public cannot react favourably to the more humane methods of treating offenders.

The public need to be oriented on peaceful rehabilitation of the erring members of the society.
The need of accepting an ex-convict, in the society in the interest of the social defence, should be given a good emphasis. This can be done through the press, Radio and Audio-visual aids. Society must be made to understand that after release the prisoner is bound to return back to the society. Let him return with an assurance that there are helping hands to guide him. If he remains frustrated and disgruntled, he will make matters worse not only for himself but also for those around him. The stigma of the jail sentence should be done away with and the once fallen should be lent a helping hand to stand on their own feet once again. It should not be forgotten that daily scores of prisoners are released from the jails all over India. Many of them have no shelter, food and clothing. Unless they are able to satisfy their basic needs of human existence, they are bound to adopt foul means to satisfy their hunger and want. If properly guided at this critical juncture, they will turn round the corner and lead an honest life. If properly organized the Discharged Prisoners' Aid Society can render all possible help to ex-prisoners in their re-habilitation, in finding jobs for them, in giving them vocational training and by starting adult literacy classes. No hindrance should come in their employment in
mills, factories, commercial and other concerns. For the mobilisation of the community attitude to this organization the co-operation of the philanthropic institutions like the Rotary and Lions clubs, Chamber of Commerce and even individual persons from society and political parties has to be called for. After-care work should be entrusted to voluntary agencies. The study-team on social welfare rightly remarks: "It is a matter of regret that voluntary efforts of these agencies have not been effectively utilised in the execution of programmes".

In short proper community control, economic aid, recreational facilities, security of employment and equal opportunities to develop one's own talents may definitely help to keep persons from taking criminal activities again.

It has to be borne in mind that the changes law can meet successfully are not all the changes that human life is subjected to. The race between law and social needs is a never-ending race. It is also an established axiom of jurisprudence that the law has only a very limited field of control. There is also a deep seated human nature outside the orbit of the law. As Professor Tannenbaum says, criminal nature
is deep-seated, and crime is, therefore, as eternal as society. It is an ever-present condition of human life like sickness, disease and death. It cannot be abolished forever. Perhaps crime may not exist in a non-existent utopia. Thus the law's battle with crime will be a perpetual struggle the end of which is never likely to come. The shocking increase of the white collar crime in America, the richest country in the world, has puzzled the criminologists of the world.

The position is no better in India for, according to information received and even gauging the trend from daily news papers, the number of the white collar crime seems quite big. The cases of imposters, who pose themselves as Government officials occupying high posts or related to political magnates with the sole motive of obtaining money, are many. The case of the Kazi (known as the marrying Machine case) who under different names married over and over again to extract money by way of dowry, is a shocking example of the extent of extremity in white-collar crimes.

Crime, on the whole, is on the increase in India too. A glance at the figures of crime statistics supports this view. The police are trying their best for the detection and prevention of crimes. New crime techniques have also
made the police work more difficult. There is a sort of a sordid competition between the criminals and the police in respect of techniques of crime commission and crime detection.

The Reformer in this field treads on uncanny paths and has to deal with evils in its myriad aspects. He has always to bear in mind this truth and make his efforts for improvement for the sake of human happiness and peace and security. He can think of solutions for a time and not for all time. And he can never be over-optimistic, for there can only be the correction of the criminal, but never the elimination of crime.

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