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The Crime of Punishment by Karl Menninger, M.D.

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Book Reviews


This book by Dr. Karl Menninger, one of the nation’s leading psychiatrists and the author of several books concerning the dynamics of human behavior, is well written, informative and deals with one of society’s most pressing problems—crime and the handling of the criminal offender. His thesis, that the lack of public interest in improving the criminal justice system is due to society’s “vindictive attitude” and continued belief in “an eye for an eye” philosophy, will be strongly opposed by some. However, I feel his views would generally be endorsed by most professional corrections practitioners.

Dr. Menninger contends that our system of justice is punishment oriented. He feels that this is reflected in the system’s injustice to those who, unable to make bail, are held for long periods, often in inadequate jails, awaiting trial. Other indications, he feels, are the disparity in sentencing practices of courts of equal jurisdiction, the failure to employ probation of selected offenders as an alternative to institutional commitment, and continued use of correctional institutions that do not correct. Regarding the latter, the author comments “the ultimate effect is that these criminal offenders are caught in an obsolete, ineffective, crime breeding—rather than crime preventing system.” This, the author feels, is undue punishment and gives rise to the title of his book.

One might infer from the title that Menninger is opposed to all punishment of criminal offenders. This is not the case. His proposal is that whatever punishment is meted out should not be vindictive, or based on a “retributive justice” concept, but should be designed to meet the needs of the individual as well as to protect society. He favors stricter penalties for many offenses and a more swift and certain assessment of all penalties. The author, however, does not condone punishment in the sense of long-continued torture—pain inflicted over years for the sake of inflicting pain. Dr. Menninger cites the 1967 case (an extreme example I'm sure) of a man sentenced to the penitentiary for thirty years for forging a check for sixty dollars. The judge’s rationalization was that the man had twice before committed similar offenses and had served shorter sentences without reforming! The author contends this is not penalization, correction, or public protection. It is, he claims, sadistic persecution of the helpless at public
expense, justified by the "punishment principle". Dr. Menninger does not attempt to prescribe penalties for specific crimes, but urges that effective, reasonable and humane penalties could be set if public vengeance could be ignored.

The author hopes that his reader will become concerned enough to investigate for himself. He says the criminal justice system "is a creaking, groaning monster through whose heartless jaws hundreds of American citizens grind daily, to be maimed and embittered so that they emerge implacable enemies of the social order and confirmed in their 'criminality.'" The high rate of recidivism among criminal offenders has emphasized this point.

In closing, the author reviews the remarkable strides of the last twenty years in the care and treatment of the mentally ill, all of which is a direct result of the public's concern. He predicts that,

[s]omeday, somewhere, the same thing will happen with respect to transgressors and offenders. It will be harder to bring about, for reasons we have given: the public has a fascination for violence, and clings tenaciously to its yen for vengeance, blind and deaf to the expense, futility, and dangerousness of the resulting penal system. But we are bound to hope that this will yield in time to the persistent, penetrating light of intelligence and accumulating scientific knowledge. The public will grow increasingly ashamed of its cry for retaliation, its persistent demand to punish. This is its crime, our crime against criminals—and incidentally our crime against ourselves. For before we can diminish our sufferings from the ill controlled aggressive assaults of fellow citizens, we must renounce the philosophy of punishment, the obsolete, vengeful penal attitude. In its place we would seek a comprehensive, constructive social attitude—therapeutic in some instances, restraining in some instances, but preventive in its total social impact.¹

This book should be read by the public as well as by those concerned with the administration of criminal justice, for it is society which ultimately is harmed by the failure of the system to correct and reform those who pass through our correctional system.

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Leonard Levy has once again proved that historians can write legal history and write it well. With this book he has established himself as