

Book Reviews

Stephenson, G, *The Psychology of Criminal Justice*, Blackwell, Oxford (1992)

As even physicists are now prepared to admit, there can be no such thing as complete objectivity in any field of endeavour in which human beings are the principal actors. It is hardly surprising, therefore, that this is the case with the criminal justice system. What is surprising is that the principles of strict impartiality and equity are still being held up in some quarters as characteristics of the system, in spite of a great deal of evidence to the contrary. Ideals they may be. Characteristics they are not. The problem, of course, is that, however much they might like to think they are, human beings are not rational creatures and consequently human decision-making is not a rational process. It is governed, in fact, by a whole range of irrational forces (emotions, biases, prejudices, preconceptions; some conscious, some unconscious) over which we have, at best, limited control and of which we are often blithely unaware. This is not a peculiar insight of modern psychology. On the contrary, it is something that writers, philosophers and theologians have been pointing out to us for centuries. This does not mean that, in the field of criminal justice, we should not strive for a more equitable and rational system of rules and practices. It simply means that we must be constantly aware that there will always be factors that mitigate against it, and stop kidding ourselves otherwise.

Stephenson, who is Professor of Social Psychology and Director of the Institute of Social and Applied Psychology at the University of Kent, reviews a large number of studies that explore the dynamics of decision-making at all levels of the criminal justice system, from the time of the alleged offence to the disposal of the perpetrator by the court. His thesis is that “(the) criminal justice system has perpetrated dreadful injustices ... consistently” and that, in order to understand why this has happened and to be in a position to begin dealing with it, it is necessary to understand as much as possible about the personal and social psychology that underlies it. What determines whether or not a person is identified as a criminal is not simply the outcome of their court case but the entire process that leads up to it. Beginning with the very complex and variable intrapersonal (no, there is no such thing as a distinct criminal personality or a criminal mind), interpersonal and situational factors that may lead to criminal behaviour in any particular set of circumstances, Stephenson goes on to consider criminal-victim interaction (victims “are not always (entirely) innocent”); the social psychology of criminal liability (“the individual actors in the system who wish to assign blame, starting with the victim and working through the police, prosecutors, lawyers and magistrates and juries, have their own agendas which do not coincide with the formal task of applying legal criteria in the judgement of individual actions”); the way in which police attitudes, behaviour and discretionary powers determine not only how suspects react but also what will be deemed criminal behaviour and treated as such; the effects of courtroom proceedings in determining the way in which stories are presented in evidence and consequently believed or not believed, (“justice too frequently fails to be done because

victory goes to the side whose competitive tactics prove most effective, regardless of the truth or falsity of the accusations”); the use of jurors and juries (“the jury does not do a good legal job, and whatever it does do, it does not do it very consistently”); the psychosocial factors influencing sentencing procedures; and the contribution of social psychology to the concepts of procedural justice (“did I get a fair hearing?”) and distributive justice (“was the sentence deserved?”).

Stephenson raises many important issues, contemporary issues that can no longer be ignored. His primary concern, however, is to identify the problems not to provide answers for them, although he does offer some commonsense suggestions along the way. In his discussion on sentencing procedures, for example, he suggests that judges and magistrates “should be more open and explicit about the reasons for their sentencing decisions”. What he is mainly concerned with doing, and is very successful in doing, is to raise awareness about the powerful, pervasive and, to a large extent, previously unrecognised influence of psychological and psychosocial factors at all levels of the criminal justice system and to indicate where further research needs to be done, which is everywhere. With over five hundred references, Stephenson’s scholarly but very readable book is as up-to-date a summary of the research material up to and including 1991 as it is possible to get, material that indicates, very strongly, and somewhat disturbingly, that “conventional views and assumptions about the propriety of the (criminal justice) system” are seriously flawed. What needs to be done about this and what can be done about it are other questions altogether. Everyone involved in the operation of the criminal justice system should read this challenging and timely book.

Given recent events in Australian courts, one study that Stephenson includes in his book is worth noting in conclusion. Of 114 convicted male rapists incarcerated in seven prisons in Virginia, USA, 40 per cent denied they had committed rape. A predominant theme in their interview responses was: “Women mean ‘yes’ when they say ‘no’ ”. Sound familiar?

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