

Barbara Kowalska-Ehrlich, *Młodzież nieprzystosowana społecznie a prawo (The Socially Maladjusted Youth and Law)*, Warsaw 1988, Wydawnictwo Prawnicze, pp. 240.

The book—a thesis qualifying for assistant-professorship—deals with the problems of control of social demoralization and delinquency in children and young persons. It concerns, therefore, an issue which is much discussed in the Polish criminological, legal, pedagogical, and psychological literature. It must have been rather difficult to plan an extensive work concerning such problems in a way to avoid quoting all that is very well known and has been presented repeatedly in literature. The authoress succeeded to do that : her book provides a new approach and deals with an analysis of the system of control of social maladjustment in young persons. She is equally interested in the elements of that system's legal structure and in its actual functioning ; in the tasks it has been charged with and in its organizational and infrastructural framework which contributes to its overall shape ; in the needs of its "clients" and in the required qualifications of the staff who are part of its "equipment."

The result is an ambitious work which shows the examined problem from a new perspective. The reconstruction, made by the authoress, of the system of control of social demoralization in young persons demonstrates in sharp outline that system's

strong as well as weak points. The former include the fact that the school has been made a basis of prevention of maladjustment ; a weak point here, instead, is a lack of another such basis in a network of independent social organizations which would contribute to the care and education of children and young persons in close relationship with the population of the separate localities. The concentration of decision-making concerning juveniles and minors in the family court which deals mainly with care and education, is another of the system's strong points ; a weak point in this connection is the preservation of departmental divisions, most evident in some preposterous regulations which prevent the access of various categories of young persons to the existing centres for prevention and resocialization (e.g. to the curators' youth centres).

The detailed discussion of the system starts with a description of the population of "clients" it deals with (Chapter I). Next, the authoress proceeds to discuss its elements involved in guidance, diagnosis and selection of those "clients" (Chapter II), and the functioning of the segment where decisions are taken about resocialization of juveniles and minors in need of such treatment or intervention in their educational environment (Chapter III). In Chapter IV, the forms and means of care, education and resocialization undertaken within the system have been discussed. The work ends with a presentation of State agencies charged with coordination of educational activities aimed at prevention of demoralization in children and young persons (Chapter V). Thus the book's structure is clear and acquaints the reader with the entire system, pointing to all its embranchments, bottle-necks and blind alleys.

The system's framework is made of legal provisions which regulate the organization, competences, and methods of operation of its separate components. The way of analyzing and appraising those provisions is therefore of particular importance. Their vast majority is of a substatutory rank : hence the authoress starts with confronting them with the statutory regulations—provisions of the Act of October 26, 1982, on proceedings in cases of juveniles—in order to find out about their consistence with those provisions. Next, she appraises them in the light of the system's general assumptions and of scientific views, and proceeds to confront them with the practical possibilities. The final opinions include all of the above elements.

This approach is worthy of praise. In many cases, it leads to highly critical remarks directed at some provisions. Such remarks are always well-documented, their reference system explicit : e.g. the so-called preventive activities undertaken by prosecution agencies. Also right is the criticism of some solutions of the Act on proceedings in cases of juveniles, e.g. the provisions on modes or costs of proceedings. The authoress is also absolutely right in pointing to the need for restrictive interpretation of the court's powers to institute proceedings in cases of juveniles who reveal symptoms of maladjustment. The list of such right statements as to the merits contained in the book is too long to be continued here.

Some controversial problems should now be mentioned, as well as the issues where I find it difficult to agree with the authoress.

What is therefore rather unfortunate in my opinion, is the distinguishing of "decisive" and "cognitive" diagnoses. One can hardly expect the former not to be based on cognition, and the latter — to be unsuitable for decision-making. At most, the question here might be what use is actually made of a specific diagnosis , as the authoress rightly observes, those made in the case of socially maladjusted children and young persons are always to help direct the appropriate steps taken towards them.

The authoress is right in postulating that in diagnosing social maladjustment, a multistage procedure should be employed the first stage of which would consist in selection, i.e. would be aimed above all on the separation from among the examined population of subgroups to be submitted to further stages of diagnostic examination. Another right statement is that "a specialistic examination produces additional stress and stigmatizes the child and his family in the eyes of neighbours and peers" and should therefore be limited to the necessary minimum. The authoress also stresses the importance of early detection of disturbed behaviour for effective prevention of social demoralization.

A problem arises here, however, of the way of squaring those two fit postulates to each other. The commendable need for development of prevention prompts a development of diagnostic examination as well, while the justified fear of stigmatization urges the greatest possible limitation of such examination according to the principle *primum non nocere*. This is a complicated problem in so far as the early disturbances are usually unobtrusive, and it is difficult to distinguish between the temporary educational problems of a developmental nature and the symptoms of a beginning process of social demoralization. Hence it would be the more interesting to know the authoress's opinion about this issue and her possible suggestions as to the recommended strategy.

The authoress rightly criticizes the "conception of the home for detained juveniles as a quasi house of detention awaiting trial," adopted in the Act of October 26, 1982 on proceedings in cases of juveniles, and proceeds to state that "this way, that institution's character defined in executory provisions might suffer an unfavourable limitation." The problem is, however, that the Act's settlement of this question, also considered unfavourable, is nevertheless binding, and the inconsistent executory provisions should be adjusted to it.

As we know, there is a variety of conceptions and solutions as regards the agency to decide in cases of juveniles (courts, commissions) and the way of its operation. The paragraph where they have been summed up under the title "The crisis of judging juveniles or of the court ?" (pp. 127—131) leaves the reader somewhat unsatisfied although I do not intend to question any of its contents. What is missing, in my opinion, is a discussion of the attempts at successfully solving the outlined controversies through abandonment of "adjudication" in the operation of family (or juvenile) courts for "conciliation," based on a joint action of the juvenile, his parents and the court in order to get at the sources of evil and to agree upon the way of solving the conflict which underlies the juvenile's behaviour and has resulted in his appearance before the court. This is a most important problem also from the point of view of the postulated changes in the functioning of the Polish family courts.

Similarly, also the presentation of the development of the network of juvenile courts in Poland (from the original 34 to nearly 140 seems unduly brief. The fact should have been mentioned, too, that many years long, the local competence of those courts in criminal cases differed from that in cases concerning guardianship. The statement that "in 1953, their competences were broadened to include cases concerning guardianship" seems insufficient here.

A few trifles to end with : I believe it not exactly appropriate to use, in relation to delinquents, terms such as "isolation institutions ;" "judged cases "criminal demoralization of the youth "discretionary application of temporary measures," while what is actually meant is the freedom of their application ; "guidance [...]" institutions moreover, I would hardly call "discernment" a "form of guilt."

The above exemplifying observations concern matters of secondary importance. If we accept the book's convention, its above-mentioned qualifies come fully into view. But first of all, that convention should be defined clearly. The work under review might seem superficial, just touching upon the phenomena and the "real" problems they give rise to. This may be the opinion of a lawyer, used to dogmatic analyses of the contents of provisions on the one hand, and of a criminologist who in turn is accustomed to discussions of the findings of studies of the lives of juvenile delinquents on the other hand. It should therefore be stated quite clearly that it is not such problems that the book deals with. It deals, instead, with a structure : the system of prevention and control of young persons' demoralization, and the interdependences of its components. This very approach is a valuable novelty in the book by B. Kowalska-Ehrlich, LLD.

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