

SANCTIONS AND REWARDS IN THE LEGAL SYSTEM: A MULTI-DISCIPLINARY APPROACH. By M.L. FRIEDLAND (Ed.) [Toronto: University of Toronto Press. 1989. 224 pp. Softcover: £9.95].

EVERY person has an opinion on punishment and its effect on a recalcitrant; every other person has his or her pet theory on how encouragement and rewards shape behaviour; and certainly every parent has his or her notion of when sanctions and rewards should be used on his or her child. What none of us has done is to write a series of learned essays on such a topic – until now. This book is a collection of essays written and presented by scholars in different disciplines – management, history, public policy, psychology, anthropology, law, sociology and political science – at a symposium organised by the Canadian Institute for Advanced Research. Each of the writers examines the issues of sanctions and rewards from their unique perspectives. The titles of each of the ten chapters are enough to give away the discipline of their respective authors.

In chapter 1, history Professor John Beattie details “Criminal Sanctions in England since 1500”; this is followed by Laurence Ross’ “Sociology and Legal Sanctions”, Philip Cook’s “The Economics of Criminal Sanctions” and Robert Rabin’s “Deterrence and the Tort System”. In chapter 5, Franklin Zimring examines “Methods for Measuring General Deterrence”¹ and in chapter 6, Joan Crusec discusses “The Approach of Psychology”.² Chapter 7 is entitled “Sanctions and Rewards: An Organizational Perspective” by Hugh Arnold, and chapter 8, “An Anthropological view of Sanctions and Rewards” by Pierre Maranda. The final two chapters are Carolyn Tuohy’s “Achieving Compliance with collective Objectives: A Political Science Perspective” and Christopher Stone’s “Choice of Target and Other Law Enforcement Variables”.

In his introduction, Friedland states that one of the main aims of the volume is to fill the gap in research into effective techniques for controlling and regulating human conduct. This collection performs this task admirably. The essays are not aimed at the specialist who already commands a deep understanding of the issues and who is interested only in obscure or academic points. Being symposium papers, they introduce

¹ Properly entitled, “Methods for Measuring General Deterrence: A Plea for the Field Experiment”.

² Properly entitled, “Sanctions and Rewards: The Approach of Psychology”.

the uninitiated to the various problems and issues that often confront law-makers and enforcement officials. To a greater or lesser extent, similar themes and issues pervade all the essays: Does deterrence actually work in the criminal and civil areas? Are rewards more effective than sanctions? Is internalization of values the best technique for gaining compliance? Will certainty of penalty have a greater type of crime for another? What target or targets should enforcement be aimed at? Is it better to concentrate on 'designing out' undesirable conduct? To what extent will the answers to the above questions depend on the area of conduct being examined?³

The collection is not arranged according to any particular structure although careful editing has ensured that the essays are held together by the main theme. In the opening chapter, Beattie shows that throughout English legal history, sanctions, rather than rewards have been used to control criminal and anti-social behaviour. This finding is not surprising from a sociological perspective although sociologist Ross discovered that the deterrent effect of sanctions are enhanced when there is an increased certainty of punishment. Cook, Rabin and Zimring offer interesting insights into how economic theory and quantitative methods might prove useful in analysing and controlling behaviour.

Economic and game theory are currently in vogue with lawyers attempting a multidisciplinary approach in legal analysis. These theories are based on the assumption that all human beings, given certain situations will react in a rational, and hence predictable manner. If this hypothesis is correct, then all that law-makers and law enforcement officers have to do is to hit upon the right formula for controlling behaviour. As these three chapters show, theory and reality are quite different, although important lessons can be learnt from the application of these theories nonetheless.

Grusec and Arnold take a look at the problems of sanctions and rewards from a psychological perspective. Grusec draws on work done by developmental psychologists on child behaviour and concludes that it is far more desirable to "internalize" rules, values and behaviours, *i.e.* getting the subject to accept the rules and values as their own. Arnold discusses the use of punishment and sanctions in the workplace and their various effects and shows how ineffective punishment is in the absence of the punishing agent unless he is physically present to monitor the behaviour.

Maranda's chapter is one of the most interesting. He looks at the issues of sanctions and rewards from an anthropological perspective and his case study on the effects of pornography and driving behaviour and accidents is fascinating. In that study, he argues that there is a semiotic link between women and horses and cars. From his study, he puts forward the following hypotheses:⁴

1. An active sex life correlates positively with low accident rates.

³ See Friedland's Introduction, at p. 12.

⁴ See p. 171.

2. The use of hard-core pornography correlates positively with high accident rates.
3. The use of soft-core pornography correlates positively with average accident rates.
4. Abstinence from pornography correlates positively with high accident rates.
5. The efficacy of publicity for safe driving correlates positively with the skilful use of images of women.

Interesting though the above propositions may be, Maranda poses more questions than he has answers for. For example, why was his study based on men alone. Is there an underlying assumption that most accidents are caused by men, or that women do not read pornography?

The last two chapters deal with how rules and commands operate to shape behaviour. Tuohy argues that compliance mechanisms in practice display a mix of command, exchange and persuasion features and that the importance of each of these components can be enhanced by careful symbolic usage. Thus an important social value is signalled by the use of command, rather than persuasion. Finally, Stone's chapter identifies and discusses four control strategies: harm-based liability rules, penalties, standards, and rewards. He argues that each of these strategies should be discriminately applied to modify behaviour in each different situations.

This collection can be recommended on two grounds: First, it provides a good introductory text to all scholars who are interested in cross-disciplinary studies on the subject, and secondly, issues raised by the authors constitute a useful agenda for further research. Each chapter is short and succinct and the prose is very readable.