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A PLAN OF RATIONAL TREATMENT FOR WOMEN
OFFENDERS¹

KATHARINE BEMENT DAVIS²

The size and character of the problem of the woman delinquent differentiates it from the problem of the man criminal, and warrants its consideration as a thing apart.

According to the latest figures in my possession, the number of prisoners in custody at a given date in the County Jails, District Prisons, Workhouses, County Penitentiaries, State Prisons and State Reformatories for men and women was 13,280. Of these, 1,620 were women, or, women formed but 12 per cent. of the total prison population. Comparing, however, the number of those entering these institutions in a given year, the percentage of women is much higher, being 23 per cent. of the whole. These figures show that, numerically the problem of the woman delinquent is not as serious as that of the man criminal. An analysis of the basis of the character of the offenses committed brings out another phase of the question.

On September 30th, 1910, there were in the State Prisons, State Reformatories, Penitentiaries, County Jails, and Workhouses, a total of 12,017 individuals, of whom only 1,444 were women; this, again, is about 12 per cent. With the exception of the County Jails, the persons incarcerated were all serving sentences. The tables do not show the number of those awaiting trial in the County Jails as separate from those serving sentences, but as the proportion between the number of men and women in the jails does not vary greatly from the proportions of the total numbers, this will not much affect percentages.

Persons convicted of felonies and misdemeanors are sent to the State Prisons, State Reformatories and Penitentiaries. Those convicted for minor offenses serve their terms in the County Jails or Workhouses. Of the men in the former group, there are 8,664 individuals; that is to say, 78.9 per cent. of the men prisoners were serving for felonies and misdemeanors, while of the women in the State Prisons, Penitentiaries and those in the State Reformatories serving for misdemeanors and felonies, the number amounts to only 498, or 34 per cent. In other words, felons and misdemeanants form nearly

¹A paper read before the New York State Association of Judges of the Inferior Courts at Syracuse, December 6, 1912.

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80 per cent of our male prison population; while of the women, only 34 per cent are convicted for the major offenses.

A study extending over twelve years of the women convicted in the courts of New York City convinces me that by far the greater proportion of the women convicted of felonies are women who are leading immoral lives; probably, again, in a high percentage of cases, the lives of actual prostitutes. An intensive study of 590 cases of women prostitutes from New York City, who have been sentenced to Bedford, show that thirty-two and a fraction per cent. were committed for misdemeanors and felonies; the remainder for offenses connected with sexual immorality. Of these, thirteen were convicted of being habitual drunkards, but by their own admission all were living the life of prostitutes. A comparison of the statistics furnished in the last annual report of the State Probation Commission shows that of the women placed on probation 20 per cent. were guilty of misdemeanors; 1.6 per cent. of felonies; and of the balance, 29 per cent. for prostitution, 21 per cent. for disorderly conduct, and 22 per cent. for public intoxication. My experience would lead me to believe that a very large proportion of those convicted of disorderly conduct and public intoxication were immoral women.

Of the men, 40.5 per cent. were convicted of felonies and misdemeanors; 3 per cent. of public intoxication; 20 per cent. of disorderly conduct; and 25 per cent. for non-support of families.

There is little doubt in the minds of those who have had much experience in dealing with women delinquents, that the fundamental fact is that they belong to the class of women who lead sexually immoral lives. This is probably true also of the criminal man but no statistics can be had on this point, and unless men can be proved to have engaged in the white slave trade or of living upon the earnings of prostitution, nothing can be done by law. The women delinquents form, therefore, a more or less homogeneous class, and any scheme for their rational treatment should take into account not the character of the offense committed but the character and needs of the individual woman. Whatever treatment we impose should be made to fit the criminal rather than an attempt to make the punishment fit the crime. There can be little doubt but that a logical plan worked out along these lines would result in the best possible protection to society from this class of offenders.

As an illustration of the futility of present methods, we might call attention to the fact that out of the 590 women committed to Bedford, to whom we have referred above, there are only 240 individuals, or

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41 per cent., of whom we have been unable to find a previous history of delinquency. In a considerable proportion of these cases we simply cannot get back of the girl's own admission. Of the remaining 59 per cent., or 347 individuals, we know that 44 have served two sentences for delinquency previous to being committed to Bedford. Among the 44, such records as this are not uncommon:

One individual: Nine arrests, two terms at the House of Good Shepherd and two terms at the Workhouse.

Another individual: One term at the House of Refuge, Randall's Island, two terms at the House of Good Shepherd, "many times at the Raymond Street Jail."

Another individual: One term at the House of Good Shepherd, four terms on the Island, five other arrests.

Another individual: Two terms at the Hudson House of Refuge, one term at the Workhouse, three arrests and a second commitment to Bedford.

In the year ending August 31st, 1912, in the Women's Night Court, statistics of finger-prints show, that of 4,000 individuals, 47 per cent. were finger-printed for the second time at least in the two years; 296 individuals, or 15 per cent., had been finger-printed five times and over in two years. The records from other parts of the State and for all our institutions for women will develop similar facts.

The conclusion from the data at our command is that present methods are totally inadequate to deal with the situation. A very large proportion of the women convicted are not deterred by their punishment from repeating the offense and society is as truly obliged to support these women as if they were publicly provided for.

Again, studies already made in institutions for delinquent women both in this state and elsewhere show a high percentage of mental defectives. This means women who are not superficially different from other women but who have the minds of children and who bring into the world illegitimate children who, if the laws of heredity mean anything, are liable in their turn to become a burden upon the community. The studies made by Dr. Goddard of Vineland, Dr. Davenport of Cold Spring Harbor, and others, as well as the study of our own field workers on typical cases among our inmates, show very plainly the relation between delinquency and degeneracy. Among the 590 cases of prostitutes above referred to, we estimate 106 as so feeble-minded as to be unlikely ever to maintain themselves in society; 20 others were insane

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and have been transferred to asylums for the insane; 7 were epileptic; 13 were the so-called border-line cases, and so on.

The understanding of criminal philosophy has made long strides in the last decade. Plans, which in this country, at least, would have been received as too visionary for consideration, now meet at least with a respectful hearing. It is, therefore, not beyond hope that a carefully considered plan for the rational treatment of the women delinquents of the state of New York might be made with some hope of awakening sufficient public support to carry it through.

The plan includes:

1st.—The limiting of functions of all courts which deal with women solely to determining the question of her innocence or guilt.

2nd.—The establishment of a State Commission into whose care all women delinquents should be given as soon as convicted.

3rd.—This commission might consist of seven members—two from each of the three districts, into which the state would be divided, and one commissioner at large. The commission should be absolutely non-political in character—probably appointed by the Governor of the state—one each year to serve for a term of seven years, and should be men and women fitted by training and experience for so important a duty. Preferably, I would have such a commission composed of three men and four women. The state could be divided into three districts. The first district to consist of Greater New York, the remainder of Long Island and Westchester County; the second and third districts would comprise the remainder of the state, so divided as to give, practically, the same population to each division.

The commission plan will not seem as radical as it would have appeared a few years ago. Such a plan was proposed by myself two years ago as far as delinquent women of New York City was concerned and this plan has met with at least respectful consideration in a good many quarters. At the last annual meeting of the Institute of Criminal Law and Criminology, a commission plan for the care of men was suggested by the Superintendent of the State Reformatory for Men at Minnesota, who is an authority on penology.

4th.—At a central point in each district, but outside of a city, the commission should locate a clearing house. Through those clearing houses all women convicted in each district should pass. Each clearing house should have a staff consisting of an expert physician, or physicians, a psychologist, and field workers. As a result of their study of the individual cases, the women would be assigned by the commission to

the proper institution. The commission would be responsible for the work of the clearing houses; would appoint the heads of each, subject to civil service regulations, with the desirable proviso that all scientific positions will be open to competition from any well qualified person whatsoever, regardless of state boundaries.

5th.—Cooperation should be provided for between the commission in charge of delinquent women and the state probation commission whereby the latter would be directly responsible for the women placed on probation. All persons who were found on the clearing house examination to be of fair mentality, capable of self-support, and otherwise suitable for probation would immediately be turned over to the state probation commission.

6th.—The women's department in all our county penitentiaries, in the New York workhouse, and in our state prison should be abolished. Women should be detained in the county jails and city prisons (preferably in all of the larger cities in detention houses especially for women) only until they have been judged guilty by the courts.

7th.—The using of private institutions only for the care of delinquent girls under sixteen years of age, making the state responsible for the care of all adult women law breakers.

8th.—A change in the law whereby with proper safeguard all sentences for women should be absolutely indeterminate. The law to provide the conditions under which parole and final discharge should be made.

9th.—The more rational use of the existing state institutions for women and the establishment of such other institutions as would be necessary to carry out the plan.

For the state at large it would be necessary to have a farm colony for defective delinquents. Letchworth Village will be prepared to take care of the feeble-minded non-delinquents. For reasons brought out at the recent State Conference of Charities and Corrections, institutions for the feeble-minded will be greatly handicapped in their efforts to segregate this dangerous portion of our population if the situation is complicated by presence of the women of the character of the feeble-minded delinquent. One such farm colony, centrally located and organized on proper lines, would, I should think, serve for the entire state.

The new State Farm for Women over thirty years of age at Valatie could be developed so as to provide for the care of all women offenders over thirty years of age who have been convicted five times or over, striking out from the law the provision that the five convictions must

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be within a two year limit. This would practically mean custodial care of the proved incorrigible.

Each of the three districts should have its reformatory which should be a purely educational institution teaching suitable industries. To these reformatories only women should be committed who are mentally capable of being trained to lead a self-supporting life.

I, personally, believe that the day will come when we will do entirely away with determinate short sentences in the treatment of any offender. Until this time comes, it will probably be necessary to provide a substitute for workhouses, county jails, and similar places. This substitute would preferably be a farm colony in each of the three districts. Where sentences are short, it is almost impossible to teach trades. Farm work, including dairying, poultry raising, etc., affords a variety of labor at which unskilled persons can be occupied with benefit to their health and with profit to the state, as the products of their labor decreases the cost of maintenance.

In the reformatory institution there is no question in my mind of the advisability of the genuinely indeterminate sentence. The prisoner should recognize that her only hope of freedom is in preparing herself to lead an industrious, self-supporting life. The hope of this should be kept ever before her.

I should recommend that each of these reformatory institutions have its resident parole officer who would, however, work in harmony with the State Probation Commission as suggested recently by Mr. Wade. To my mind, the personal knowledge of the character and needs of the individual, which is gained by actual living in the institution, is an important requisite to the successful placing of women especially. Advantage of the machinery of the Probation Commission could, however, be taken where it was desirable to send women on parole from one section of the state to another.

Under this system it would be possible where there were new developments in any case, or where it was found as a result of experience that a particular woman was unsuitably placed she could be returned to the commission for transfer to one of the other groups. Women adjudged insane could then, as now, be transferred directly to Matteawan.

The advantages of this plan would be many. In the first place, it would secure uniformity of action and treatment throughout the state. In the second place, it should afford the possibility of a much more careful and specialized training for the hopeful cases by relieving the educational institution of much that is now simply dead weight. It would

remove permanently from the community the feeble-minded delinquents who are now generally recognized as a social menace, and would relieve the state from the ever increasing burden of the support of their illegitimate children. Furthermore, in my judgment, such a policy, thoroughly carried out, would do more to rid the streets of New York and our other large cities of soliciting, loitering, and public vice than anything that could be devised. There is nothing the common prostitute fears so greatly as to know that if she offends and is caught, she will be subject to the possibility of prolonged confinement.

I believe, in the long run, the expense to the state would be lessened. For one thing, we would no longer have to maintain the women's department in our jails, Auburn Prison, city workhouses and penitentiaries and the cost of repeated arrests and convictions would be cut out. The incidence of support would be something to be carefully considered. It would probably have to be borne by the counties pro rata for the number of its convicted women—somewhat on the same plan as our State Custodial Asylums are now managed.

It might be that the proposed custodial institution, the farm colonies and the state farm for habitual offenders should be under the exclusive jurisdiction of the proposed Commission, but it would seem to me well to retain the special boards of managers for the reformatory institutions. In these, the most important work, a specialized work will have to be done and the management should be sufficiently free of other responsibilities to devote all its energies to devising and perfecting the most approved educational systems.

This plan is offered not with any idea that it can be adopted in its entirety nor that it would not need modifications or working out in its detail. Something of the sort, it seems to me, is bound to come sooner or later and it is well to have a comprehensive plan before us as an ideal. No such plan will bring about the millennium. State institutions will have to exist until the times come when, through preventive measures, of which the education of both men and women in self-restraint, purity, and social consciousness form the chief part, we shall have brought about the righteousness for which we all are working together in our individual fields.