

1948

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Recommended Citation

Sanford Bates, One World in Penology, 38 J. Crim. L. & Criminology 565 (1947-1948)

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ONE WORLD IN PENOLOGY

Sanford Bates

This article was delivered as an address before the Congress of Corrections, meeting in San Francisco in October, 1947. The author is President of the International Penal and Penitentiary Congress. During nearly a third of a century he has given practically his whole time to the administration of penal and correctional systems. He was Commissioner of the Massachusetts Department of Corrections, 1919 to 1929; Superintendent of Federal Prisons, 1929; Director of the Federal Bureau of Prisons, 1933 to 1937; New York State Parole Commissioner, 1940 to 1945. Since that time Mr. Bates has been Head of the New Jersey Department of Institutions and Agencies. He is a member of the Advisory Editorial Council of this JOURNAL.—EDITOR.

I. History of International Cooperation

The great and culminating development of the present age is the degree to which the horizons of governmental responsibility have been widened and our interests in government and our responsibility for it have been expanded until they now envelop the globe. Fifty years ago Wendell Willkie could not have written a book called, *One World* which would have been accepted as his was. For better or for worse, as a result of two world wars, in large measure, we have embarked upon a new voyage. We cannot retire into the provincialism of the past. Our economy and industries and our social life generally are deeply affected by the world situation. Having fought to save the world, we cannot stand by idly watching the nations of the world starve.

The United States of America is paying nearly half of the total cost of the United Nations Organization. It is properly subordinating all its international activities to the success of this last attempt at united action to outlaw war and bring effective cooperation.

It is inevitable that the social aspirations of the nations should feel the same impulse. It is no new effort. The roster of international organizations, both government-sponsored and non-governmental is extensive. Under the well-financed sponsorship of United Nations, the social and welfare work of the world is likely to become effective. The World Health Organization, The International Labor Office and other of the better known world organizations are thinking and acting now in terms of world conditions rather than national or local. The social workers of the country are planning to revive interest in an International Social Work Organization which is to meet at Atlantic City next spring.

It is logical, therefore, to think of our penological and correctional problems in terms of their world implications. Here again our attention can be called to the fact that for nearly a century sporadic efforts had been made to unite the nations toward the realization of higher aims in prison management.

When our great American Commonwealth was formed the county had been the unit of government and in penal circles the jail was, by force of circumstances, the only penal institution and the county was the seat of responsibility in the penal problem. Shortly, at the beginning of the last century, state responsibility for its lawbreakers commenced to develop but it was not until almost the end of the 19th century that the national government demonstrated any concern for its prisons and reformatories. Developments in the smaller states of Europe and South America were, of course, on a somewhat different basis, our government being a confederation of states whereas in most foreign countries the state coincided with the national government. It is a remarkable tribute to the vision and devotion of the early prison reformers of America that they thought in terms of world progress. The first international prison meeting was said to have taken place in Frankfort, Germany just a hundred years ago. The International Penal and Penitentiary Congress was formally launched in the year 1872. The membership of the United States of America in this organization dates from the early 1890's.

Interrupted in its progress by two wars, hindered by the lack of sufficient funds, it, nevertheless, set up in Berne, Switzerland in 1926 a permanent secretariat and has done what it could to distribute information and to keep the various commonwealths of the world advised as to progress in the penal field. It has gathered together on a number of occasions countries of the globe up to as many as 55 in its periodical congresses. The governing body of the international movement was called the "International Penal and Penitentiary Commission," and it comprises delegates appointed officially by the governments accompanied by a small contribution based upon a stated formula.

The modern history of the I.P.P.C. dates from the year 1910 when the countries of the world met in Washington. They were given an extensive trip around the country. They saw some of the newer experiments in penal architecture. They learned about the reformatory movement initiated by the venerable Brockway and they saw probation and the juvenile court beginning to develop, these two being strictly American con-

tributions to penal science. It was at this time that the *American Criminal Science Series*—the most complete set of works on Criminology and Penology ever brought together in one series—was published by Little, Brown and Co. It came out under the auspices of the *American Institute of Criminal Law and Criminology* which had but recently inaugurated the *Journal of Criminal Law and Criminology* as its official organ. The late John Henry Wigmore, then Dean of the Northwestern University Law School, was the inspiring genius who made the *Series* and the *Journal* possible. The *Criminal Science Series* includes volumes by such distinguished representatives of Criminology and Penology as Lombroso, Garofalo, Salleilles, Aschaffenburg, Ferri and Tarde. One might almost say that the year 1910 marked a milestone in American penal history and demonstrated a desire for a world literature on the subject. Then came the World War of 1914 to 1918 and the I.P.P.C. did well to hold its organization through that difficult period. But in 1925 a revived organization met in London—fifty-five nations represented. Discussions there began in earnest. Probably the most distinguished gathering of international students and practitioners of penal law were present at that conference. We were addressed by the Lord Chancellor of England. I recall world-famous figures such as Enrico Ferri, Ugo Conti, Lord Polwarth of Scotland and Sir Evelyn Brise Ruggles of England, an influential figure in world prison matters and also the Honorable Erwin Bumke, Judge of the Highest Court of the Reich in Germany. The outstanding debate in London was of interest to Americans and was on no less a subject than “The Indeterminate Sentence.” The conservative countries such as England and the Scandinavian group expressed their doubts about the safety of the individual when subjected to the whim of a parole board. On the other hand some of the central European countries felt that there might be some danger of weakening the sanctions of the law. However, the indeterminate sentence, which in America is the basis of the reformatory system as well as parole practices, introduced itself to world penology and it has become an integral part of our own system.

Another notable conference was held in Prague in 1930. There again we witnessed the clash of the newer ideas with the old prejudices and traditions. How the representatives from Bulgaria, Austria and other countries shuddered at our plan for open dormitories, camp system and what we now call “medium and minimum security.” They were for complete and utter segregation at all times. Some of the prisons built through-

out Europe reflect that determination. However, again the value of international congresses was demonstrated. At least in England and through the countries of northwestern Europe, the camp system has already begun to be recognized and Borstal institutions and so-called "open institutions" are being utilized.

The last quinquennial congress to be held in 1935 in Berlin was convened under the shadow of impending international conflict. Two years before, Hitler had taken over in Germany and had immediately discontinued the progressive practices inaugurated under the Prussian Penal System and that prevailing in other parts of the German Reich. At that congress we all felt the strained relations but few of us were willing to believe that within four years the world would be plunged into a maelstrom of war and mutual annihilation.

In our own field, however, the struggle was even then on in earnest. The clash of ideologies was evident between vindictive and repressive punishment on the one hand which was believed by the Nazis to be the cure of crime, and the educational and restorative programs beginning to be practiced with good effect by the United States, England and the Scandinavian countries. Notwithstanding the attempt on the part of the Nazis to pack the meetings and to force a decision their way by the mere force of numbers, the delegates from the majority of the countries upheld their beliefs in the fact that men could be brought to a better way of life through education and the power of good example quicker than they could through brute force and punishment alone.

At these congresses some of us from America had our first introduction to European politics. We commenced to see something of the difficulties in changing the deep-seated prejudices of our friends from other nations. Slowly but surely, however, newer correctional ideas were being introduced. Between congresses, the Secretariat at Berne kept up correspondence, issued a periodical bulletin known as the *Receuil des Documents*.

The carefully worked out agenda and preparatory work at these conferences were better and more thoroughly done than any other conferences I ever attended. There is a wealth of material based upon many scores of papers written by penologists and students from all over the world; not only on the three major subjects referred to above: "The Indeterminate Sentence", "The Open Institution" and "The Restorative Classification System", but also on such practical topics as "Wages for Prisoners", "The Influence of the Medical Profession", "The Matter of After Care". Committees were established (and many of them did some real work) e.g., upon the special

problem of the misdemeanant prisoner. Inquiry was made into the crimiño-biological studies of prisoners such as undertaken in Belgium, the United States and elsewhere. Efforts proceeded through committees on the matter of an international code of statistics and repatriation treaties among the various states.

Perhaps the most important single contribution made by the International Penal and Penitentiary Commission, and that means by any organization, was the formulation and promulgation of a set of rules for treatment of prisoners which was completed in 1932, adopted, approved and disseminated by the League of Nations. So far as I know, this is the only international attempt to set out certain fundamental standards of prison management. Of course, no one can tell what effect it has had upon prison reform in the countries. That would take something more in the way of research than we have been able to undertake. But at least the standards have been stated and any government that desires to be informed as to these standards has a pamphlet at hand for consultation.¹

II. *The Present Situation*

One might regard the foregoing a rather productive and significant history of international penal cooperation in view of inherent difficulties of distance, language, etc. Naturally all progress ceased during the difficult years of 1937 to 1945. But last summer, in August of 1946, 19 countries still signified their adherence to the International Penal and Penitentiary Commission and 16 of them sent representatives to Berne for the first international meeting following the war. Meanwhile as was inevitable, the Social Commission of the United Nations expressed its interest in world correctional affairs and appointed a committee to investigate and act on an international basis. In May of 1946 the temporary Social Commission of the U.N. expressed its wish to confer with international bodies especially naming the I.P.P.C. to see how cooperation could be secured in the accomplishment of their common object. When a preliminary committee met in April, which meeting was attended by Mr. Edward R. Cass, as Representative of the Federal Government, and later when the full commission met at Berne in August, some misgiving was voiced lest such a move might result in political rather than professional domination of the international penal situation. But after six days of amicable discussion, the members of the I.P.P.C. agreed to meet with

¹ Also available is a recent pamphlet entitled "Work and Activities of I.P.&P.C. 1872-1942" had on application to Oberweg 12, Berne, Switzerland.

representatives of U.N. to discuss the terms under which united or cooperative action could be undertaken. It should be borne in mind that through the 75 years of its existence the I.P.&P.C. has been conducted on an economical basis. It not only owns its building in Berne, Switzerland but it has investments equalling about \$150,000 in American cash. It has the records of 14 international congresses with an unparalleled accumulation of penal literature. This material should not be scrapped. The final vote of the I.P.P.C. was that it would discuss cooperation provided certain principles were maintained. These are the principles:

1. The holding of a quinquennial Congress after the manner heretofore established.
2. The retention of the participation of the present or other delegates to be appointed in the same way as now employed.
3. That the organization should have a permanent office employing its own permanent staff and that the services of the present Secretariat of the I.P.P.C. should be retained and that sufficient sums should be appropriated to maintain and augment it as may be necessary.
4. The financial and other assets of the I.P.P.C. should be conserved and devoted only to purposes within the scope of the Commission as described in Article 1 of its Constitution.
5. The organization shall be composed of persons with a professional, technical, or scientific experience in penal and penitentiary matters.
6. That all delegates should have complete freedom to express their opinion on any matter before the organization.

Having been elected President of the International Penal and Penitentiary Commission, the writer of this paper returned to America eager to collaborate with the United Nations and looking forward to greater accomplishment in the world-wide aspect of penal reform. On January 27 I was invited to appear before the Social Commission and on the day before that the invitation was summarily withdrawn. The reason given was that in accordance with a resolution adopted by the General Assembly no international organizations, governmental or non-governmental, would be admitted to conference with the U. N. in which Franco-Spain held membership. For many years the Spanish representative had attended the I.P.P.C. meetings and sometime before the August meeting had paid dues in this organization.

A few days before the time came for the delivery of this paper, the following telegram was received:

“Spain just declared withdrawal with a view of eventual collaboration of CIPP with UNO. Stop. Letter with original documents follows.”

The official documents arrived in due course. The Social Commission was so notified and, while there was not time to arrange for a conference at the second session thereof, there is every reason to believe that negotiations will be resumed when the Social Commission meets again in February or March.

I believe that the I.P.P.C. has performed a useful service in the field of world penal reform. There is still a great deal to be done. Whether it is necessary to dissolve the I.P.P.C. before making it possible for the Social Commission of the U.N. to proceed in its efforts, I very much doubt. I can see no reason why both of these organizations cannot proceed each within its own field to accomplish the things that need to be done. Possibly within the next six months or year some such liaison and cooperative effort may be achieved. I'm sorry Mr. Benedict Alper, who is working with U.N. in the correctional division, cannot be here as he intended. He and M. Adolphe Delierneux, whom some of us met in the foreign meetings, have been assigned by the United Nations for the development of correctional work throughout the world. I have been in touch with them. Our last meeting was in the middle of August and I felt greatly encouraged by the possibilities of united action. Mr. Delierneux wants to have a representative committee appointed of penal experts in America to work with them as a Board of Consultants. This we have already agreed to do.

If the principles as above laid down are maintained; if the I.P.P.C. can figure as a voluntary association of professionals, experts if you will, and can be backed up and supported and implemented by the political group represented in U.N., there is no question that greater progress can be achieved than has been possible heretofore.

III. The Future of World Penal Activity

We in America have no assurance that our penal policies and practices are superior to those of the rest of the world. There is still a sharp clash of ideas as to whether or not our reformatory system is superior to the one which has for its purpose the strict infliction of penalties as the core of its philosophy. However, based upon our standards, the rest of the world has much progress to make.

Recently I asked M. Ernest Delaquis, the long-time Secretary of the International Penal and Penitentiary Commission, what he felt was the challenge for the future for international penal reform and I quote here from his letter:

Are we on the right path with the present-day *treatment of the*

delinquent? It is based on the sentence without having any regard for the possibility of a similar physical make-up of two delinquents, one of which may be sentenced to penalty X, the other to penalty Y. Would it not be correct to *adapt the kind of treatment to the kind of personality?* To comprehend accurately this personality, *auxiliary services* (of the Courts etc.) would have to be instituted, as they are in fact existing in various states. *Crimino-biological examination* for the purpose of studying the personality of the offender would have to be extended; *observation centres* would have to be created; *psychiatric diagnosis* might also be considered.

The judge would confine himself to passing a verdict; the institution would be decided upon after the observation and diagnosis explained above. *A transfer from one institution to another during the execution* would have to be made possible for adults in the same way as it is already often practiced with juveniles.

The system of detention would as a matter of principle and as far as possible have to be the *progressive system*. In this connection the special question will arise whether *conditional release* should be made *compulsory* in every case, as is intended in Sweden.

The *collaboration of a judicial authority* (Treatment Tribunal) *during detention* in a penal establishment would have to be provided, as in Italy, Czechoslovakia and in future in France.

Continuous observation by a psychiatrist is undoubtedly advisable; the *medical service* will be responsible for the health of the prisoners.

Release should follow on reformation; for as a matter of principle the system of the indeterminate sentence seems to be appropriate. Should it not be considered acceptable in a particular case, it would have to be replaced by the relatively indeterminate sentence with maximum limit.

Short-term penalties involving deprivation of liberty will have to be *eliminated*.

After-care will have to start already during detention; it will have to be *extended* and organized on an international basis.

In confederate states it may be found necessary to institute clearing houses for the allotment of delinquents to the institutions of the individual states.

Good conduct after release should lead to full *rehabilitation*, i.e. to complete disappearance of the penal sentence in the eyes of the community.

In this broad line I see the future structure of penal administration. The many questions it will bring up are evident.

There remain a number of special questions which I will now add and which I have omitted previously in order not to blur the great lines of the above survey. I would emphasize the following:

How can the *public school*—not the school of a penal institution—in its various degrees be utilized for the purposes of crime prevention?

How is *free time* to be fashioned in prison?

Can the *good-time system* be generally applied?

Can *holidays* be provided for *prisoners* in certain cases and under certain circumstances?

How should *disciplinary measures* be shaped and what safeguards are necessary in their execution?

Which basic conditions are necessary for the maintenance of *good discipline*? Which consequences have to be reckoned with?

Is it advisable to employ the *same authorities* of prison administration for the carrying out of penalties and of measures of security, for the treatment of normal and abnormal persons, for the care of adults and juveniles?

Which requirements are to be postulated for the *construction of modern penitentiary institutions* etc.?

How should *work in penitentiary institutions* be organized, considering modern conditions of labor?

As soon as the protocol has been established and the political considerations have resolved themselves and the situation develops to the point where we can evolve a united professional attack upon the insufficiencies and dangers of our present penal system there is much to be done. It can be done only through some kind of international organization. It seems to me that the international organization would take two directions; one, the consultative, advisory and volunteer associations such as is possible under the I.P.P.C. at its periodical meetings, and two, the compulsive sponsorship of such reforms as generally agreed on which can only come from an organization such as the United Nations which does have some power behind it.

Whatever the future may hold for us the seeds of dissatisfaction with the present situation have been sown around the world. We can see the results of it today. We can never go back to our old insularity and isolation. We shall continue to attempt to improve our own systems, to make them more humane, efficient and protective. We are definitely committed to penal reform on a world basis to the limit of our ability and consistent with our own primary responsibilities.

Even as President of the International Penal and Penitentiary Commission, I cannot say that I have very much knowledge about what goes on in other countries. Possibly the Secretariat at Berne, due to the recent interruption in the normal course of civilization and the preoccupation of persons in other subjects, does not know much more than I do. But I know enough to recognize the stirrings of a new determination to approach the problem with knowledge and vigor and in conformity with what we have considered progressive standards. Here are just a few samples. From South Africa comes a report from my friend, W. G. Hoal, Prison Administrator, that prison camp experiments are being tried and that in other ways the prison camp administration of South Africa is embarked upon a program of enlightenment.

A newspaper clipping just in from Ecuador recounts a visit by the Prison Commissioner to one of their institutions near Quito and his determination to remove the prisoners who have

tuberculosis to a separate colony. From Sweden comes the well documented and thoroughly intelligent report by our friend and fellow member, Thorsten Sellin, which shows the many directions in which the prison policies of that country are being stimulated. France, long one of the chief advocates of the vindictive system of penal treatment, under the leadership of a young Commissioner named Paul Amor, has publicly announced the remaking of its prison system along ideas more similar to ours. In Germany, as part of their reconstruction development, our friend Bennett, as well as Merl Alexander and Syd Souter, have spent time in an effort to de-nazify the prisons of that country.

The Republic of Peru sent a distinguished representative to America to learn the ways of modern prison management. We are not smug when we say that whenever foreign countries get the notion of improving their prison system they seem to head for our shores.

A newspaper clipping strongly intimates that the convict camp in French Guiana in South America, popularly known as Devils Island, is to be abandoned.

Our old associate, Burdett G. Lewis, under MacArthur, is in charge of the complete remaking of the prison system in Japan.

I was informed just the other day from the Secretary of the I.P.P.C. that Eire has made formal application to join the I.P.P.C. If it's true in these countries, it must be due to some dawning realization throughout the world that perhaps the greatest blot upon modern civilization has been the manner in which we have treated the law breaker, especially the juvenile delinquent.

Since I have been in New Jersey, which is slightly over two years, we have had official visitors from New South Wales, Colombia (South America), Denmark, Poland, China, France, Chile, Uruguay, Saskatchewan, Canada, England (three times), Peru and Sweden. Our own people have been to Italy, Germany, Japan, China, Sweden, Switzerland, England and France.

Can we help but feel convinced that the day of international cooperation is really at hand? Let us hope that the United Nations will take hold with all the forcefulness and intelligence that they can command, that they will in due time call upon the International Penal and Penitentiary Commission for its experience, its help and the knowledge which it has gained and the acquaintances which it has formed over the last three quarters of a century.

The American Prison Association might well place itself on record as expressing some such hope, assuring the United Nations of its wholehearted cooperation not only as it affects the prison problems of America but of the entire world, but also expressing the belief that in this endeavor no divisive or political considerations be permitted to interfere with the most thorough-going cooperation. If the prison problems of the world are to be solved, it will be by those who have given their lives to their solution; by the students and professors, the wardens and administrators, the physicians, psychiatrists and social workers who have met the prisoner face to face. It will not be solved by the political representatives of the countries unless they confer with and follow the suggestions of those who have given their lives to the most baffling and difficult department of civil administration, namely, prison administration.

America has made a considerable investment in the safety and progress of the other nations of the world. We in the penal field must henceforth lift our own sights, administer our job, not only as a county or a state or a federal responsibility, but carry through all our work the realization that we are part of one world and that what we do in our local field will add to or detract from the success of correctional effort on a universal basis.

As I write this, there lies on my desk a copy of the American Prison Association official periodical. There is more than passing significance in the fact that the name of this excellent magazine is *The Prison World* and at the top of its cover page is a map of our whole hemisphere.

Kipling's advice to the Englishman can become applicable to the world citizen.

“Go to your work and be strong, halt-
ing not in your ways,

“Balking the end half won, for an
instant dole of praise,

“Stand to your work and be wise, cer-
tain of sword and pen,

“Who are neither children, nor God,
but men in a world of men.”