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Ninth International Prison Congress

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This has been a year of numerous and notable international conferences in Europe. One of the outstanding of these was the International Prison Congress in London, August 2-10, 1925. That was fifty-three years after the first of these congresses met there in 1872.

The International Prison Congress only meets in a country by invitation of the ruler. Then it meets in the capital and is the guest of the government.

This year there were 53 governments represented. The United States Government appointed twelve official delegates, nine of whom attended. Besides, there were about forty other persons from this country.

The congress is divided into three sections, as follows:

1. Legislation.
2. Administration.

Naturally the attendance was, roughly, one-third lawyers, judges, legislators and representatives of departments of justice; one-third superintendents, wardens, governors, trustees, and officials of institutions; and one-third representatives of children's courts, institutions and agencies. It is really a great, official, international conference against crime.

The success of the conference was largely due to the complete arrangements and generous hospitality of the British Government.

Regularly, the mornings were given to general sessions of the congress. Usually there was an address by some eminent Englishman. The opening address by the Home Secretary, the Right Honorable Sir William Joynson-Hicks, Bt., M. P.; the inaugural address by the president of the congress, Sir Evelyn Ruggles-Brise, K. C. B.; addresses on "The Principles of Punishment," by the Right Hon. the Earl of Oxford and Asquith, K. G.; "Alternatives to Imprisonment," by the Lord Chief Justice of England, the Right Hon. Lord Hewart of Bury; "The Indeterminate Sentence," by the Lord Chancellor, the Right Hon. Viscount Cave, G. C. M. G.; "The Meaning of Punishment," by the Right Hon. Viscount Haldane of Cloan, K. T., O. M.

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1Delegate from the United States.
The formal questions to be considered by the congress are adopted about a year in advance. Soon after that the writers of the stated papers are selected. They are given approximately six months to send in their papers, which are printed in French and sent to each delegate about two months before the meeting. No papers are read in the sessions but those on each question are submitted to a committee which reports to the section its conclusions. That report forms the basis of discussion.

The three sections of the congress met separately in the afternoons. Usually one question was considered at each session. The conclusions of the section were embodied in a resolution and passed to the general session. The action of the general session was the action of the congress.

For the information of our American students there are presented herewith the questions proposed to, and the resolutions adopted by the congress. They will be regularly submitted to all governments represented at the London meeting.

**SECTION I—LEGISLATION.**

*First Question.*

Should the authority charged with the duty of public prosecution have a free discretion whether proceedings should be taken or not in any case?

If so, should such discretion be subject to restraint within certain limits and to control?

Should not the court also have a discretion whether or not to record a conviction, although the facts are practically proved?

**RESOLUTION.**

Having regard to the general tendency of the evolution of penal law, a wide application of the principle of discretion is recommended in all cases where the general interest would be better served by suppressing proceedings.

For offenses against police regulations and in particular for offenses committed by minors, the principle of discretion as to whether proceedings should be suppressed or not, ought to be very broadly applied.

The exercise of such discretion should be subject to control. At the same time, having regard to the diversity of judicial organization in the different countries, it is not possible in an international congress to specify the kind of control which should be exercised notably by the judicial authorities or by allowing the public to prosecute.
Second Question.

What measures could be taken, instead of imprisonment, with regard to offenders who have committed a petty offence, or an offence which does not constitute a danger to public security?

RESOLUTION.

The hope is expressed that every endeavor will be made to substitute other penalties in place of imprisonment for short terms.

It is to be recommended notably that:

1. The system of probation should be extended to the utmost extent.
2. The power of the court to impose fines instead of imprisonment in suitable cases should be extended; and
3. The machinery for payment of fines should be developed so as to eliminate as far as possible imprisonment in default of payment.

Third Question.

Would it be possible, and within what limits, to apply the principle of the indeterminate sentence in the struggle against recidivism, not only as far as grave offences are concerned, but also for any other case?

RESOLUTION.

The indeterminate sentence is the necessary consequence of the individualization of punishment and one of the most efficacious means of social defense against crime.

The laws of each country should determine whether and for what cases there should be a maximum duration for the indeterminate sentence fixed beforehand. There should in every case be guarantees and rules for conditional release with executive adaptations suitable to national conditions.

Fourth Question.

What may be done to forward the judicious application of the principle of individualization of punishment by the judge who assigns the penalty to be inflicted on the offender?

RESOLUTION.

It should be an essential condition in the criminal procedure of all countries that the judge, before imposing any sentence or penalty, should inform himself of all the material circumstances affecting the character, antecedents, conduct and mode of life of the offender and also any other matters which may be necessary for the purpose of properly determining the appropriate sentence or penalty.

And in practice:

1. Penal law should give the judge a choice of penalties and similar measures for prevention and security and should not strictly limit his power. It should only lay down general directions so as to induce the judge to apply the principle of individualization.
2. As far as possible the courts should be specialized—in particular, the juvenile courts should be separate from those for adults—and decentralized.

3. Judicial studies should be supplemented by criminological ones. The study of criminal psychology and sociology, forensic medicine and psychiatry, and penology should be obligatory for all who wish to judge in criminal cases.

4. Such judges should devote themselves solely and permanently to criminal law and there should be sufficient opportunity for advancement in this branch.

5. Courses of lectures should be established to complete their knowledge of criminology. They should have a full knowledge of prisons and similar institutions and should visit them frequently.

6. The judge before determining the penalty should have a full knowledge of the physical and psychic conditions and the social life of the accused and the motives for the crime.

7. For this purpose enquiries about all the circumstances of the case should be made before the trial. These enquiries should not be made by the police, but should be those of the magistrate himself or of competent bodies or persons whom he should have at his disposal (e.g., probation officers).

8. Penal law should give the judge the power of obtaining information from every one who knows anything about the personality of the defendant and his social environment.

9. If these means give no sufficient idea of the physical and psychic condition of the defendant, the judge should be allowed to have him examined by physicians and psychologists.

10. The trial ought to be divided into two parts: in the first, the examination and decision as to his guilt should take place; in the second one, the punishment should be discussed and fixed. From this part the public and the injured party should be excluded.

Section II—Administration.

First Question.

If a system of some special form of detention be adopted as a means of repression with respect to certain recidivists, by what authority should such detention be pronounced and in what manner should it be executed?

Resolution.

The special detention should be ordered by the judicial authority. While the object of the detention is primarily preventive, reformative influences also should be exercised as far as possible.

The conditions of such detention should be less rigorous than those of ordinary penal discipline.

The length of the sentence should be indefinite; there should be a power of conditional discharge vested in a secretary of state or other
competent authority, who should be assisted by an advisory committee at each institution, and who should be obliged to look into the matter periodically.

Second Question.

Is it desirable that services, e. g., laboratories or clinics should be installed in prisons for the scientific study of criminals?

Would such a system help both to determine the causes of criminality and to suggest the suitable treatment in the case of the individual offender?

Would it not be advisable to use the same system for the examination before trial of persons suspected of some mental defect?

Resolution.

It is necessary that the accused as well as convicted prisoners should be physically and mentally examined by specially qualified medical practitioners, and that the necessary services should be installed for this purpose in the institutions.

Such a system would help to determine the biological and sociological causes of criminality and to suggest the suitable treatment for the individual offender.

Third Question.

Is it advisable to apply a classification of prisoners, having regard to their character, the gravity of the punishment or the nature of the offence so as to admit the application of different and appropriate regimes, and in what way should the penal establishments be arranged for this purpose?

Resolution.

The prevention of the contamination of the less criminal prisoner by those more experienced in crime is one of the first essentials in prison treatment.

After the necessary divisions according to age and sex have been made, and the mental status of the prisoner has been taken into account, classification should be according to character and ability to be reformed of each prisoner.

The shorter term prisoners should be treated apart from those with longer sentences in order that a regime or course of training appropriate to the latter but not possible with the former may be applied.

The various classifications of prisoners should be located separately and, where possible, in different buildings on the same ground under one administrative head.

It is difficult to apply the necessary individual treatment of prisoners where the number in any one establishment exceeds 500.

Fourth Question.

What is the best way of organizing the institution of the “pecule” in the case of adult prisoners and its utilization during and after detention?
How should the control, the management and the use of sums allowed to young offenders, be it as wages or as a gratuity or otherwise, be organized while they are undergoing some sentence?

RESOLUTION.

Though the state is under no obligation to pay for work compulsorily performed by prisoners, it is desirable that it should encourage them to work well by offering a recompense.

Where this recompense takes the form of pecuniary payment, it should not be liable to seizure, nor (as a rule) should the prisoner be allowed to dispose of it in making outside payments—except perhaps in the case of serious illness in his family where no gratuitous aid is procurable, or in the case of poverty of his family. This provision should not apply to money brought in by the prisoner or acquired by him during his sentence from outside sources.

It is desirable that the gratuity (whether augmented by rewards for good work or not) should be utilized, inter alia, for the purpose of repaying the liabilities of the prisoner both to the state and to his victims after fair and reasonable provision has been made for prisoner's wife and family.

The prisoner on discharge should not be at liberty to deal with his gratuity as he chooses. It should be regarded as in the hands of trustees who will expend it for him as seems best in his real interest.

Minors should be able to earn an amount sufficient to constitute a small capital for them on attaining their majority. The precaution against squandering this should be applied even more strictly than in the case of adults.

SECTION III—Prevention.

First Question

What would be the most effective way to organize the control by the state, by associations of private persons, over criminals conditionally convicted or conditionally discharged (on parole or on license)?

RESOLUTION.

The control of persons put on probation or conditionally released should not be in the hands of the police. This control should be exercised either by private societies financially supported and supervised by the state, or by official or semi-official organizations, for instance by persons paid by the state and placed at the disposal of the courts, without connection with the police. For all persons put on probation, or released conditionally, supervision should be obligatory. Submission to supervision should be voluntary only when the sentence has been completed.

It is recommended that international agreement should be fostered between central organisms of the different countries to provide for released persons who go to a country other than that in which they were sentenced.
Second Question.

Can more effective arrangements be made between different states in the struggle to protect themselves against international criminals?

**Resolution.**

The struggle against international criminals would be facilitated if different states could agree to allow direct intercommunication between the judicial and police authorities of different countries with a view to the speedier arrest of offenders of certain classes, or the exchange of information with respect to dangerous criminals. Each state should appoint a central police authority authorized to communicate directly and without needless complications with the corresponding authorities in other states.*

Third Question.

What is the best method to preserve the community, especially youth from the corruptive influence of pictures and in particular from film productions which incite to crime or immorality?

**Resolution.**

A. An effective film censorship should be set up in every country with the primary object of protecting youth. It is necessary to take special measures and to inspect cinemas to ensure the carrying out of the decisions of the censorship.

The censorship should not be confined to questions of obscenity, but should deal with all matters connected with the cinema, calculated to injure or deprave the young.

Special exhibitions with special films should be provided for young persons.

The state should subsidize organizations for the production of films which are of real value for young people and the general public.

The question of the film is one of international interest and should therefore be dealt with and regulated by international agreement. Each country should do all that is possible to prevent the exportation of films condemned by its own censorship.

B. As regards pictures other than films, every state should accelerate as much as possible the enforcement of the provisions of the International Convention relating to obscene publications of September, 1923.

Fourth Question.

What are the measures to be taken with regard to abnormal adults (persons who are feeble-minded, mentally deficient), showing dangerous tendencies?

Are these measures applicable to young persons of the same category?

*Besides, the opinion was expressed by the section that as to the law of extradition, the time has not yet come to attempt the conclusion of a universal extradition treaty, but that it is more desirable at present to draw up a draft-treaty which might serve as a model for special treaties between individual contracting states.
RESOLUTION.

It is desirable that abnormal adults showing dangerous tendencies should be sent by the judicial authorities to non-penal institutions or colonies in which they should be subject to an appropriate treatment and detained until conditionally discharged by the competent authority, who would be assisted by a committee of experts.

Young persons of the same category should be similarly dealt with, but in separate institutions if prophylactic measures have failed.

Conditional discharge, effective probation and close supervision of abnormal persons who have been liberated from institutions are an absolutely necessary measure.

From the point of view of public welfare it is essential to develop institutions for mental hygiene and prophylaxis which would allow to discover in time each case of abnormality and mental defect.

Fifth Question.

In what cases, and according to what rules is it advisable to have recourse to the “boarding-out” system for children summoned before a judge or who have incurred punishment for delinquency?

RESOLUTION.

Children brought before the courts and convicted of offenses should be, where possible, boarded out in selected families in all cases where their parents are incapable of providing for their moral education. In boarding out the aim of reforming the children for life should always be kept in view.

This method should only be employed where a complete preliminary examination of the child from the physical, mental and moral point of view has been made and has not shown it to be desirable that he should be placed in a therapeutic institution or an industrial or reformatory school.

It is desirable in the choice and supervision of foster-parents to make use of the services of either local authorities or of recognized private societies. Moreover, the rights and obligations of the foster-parents should be regulated by a written agreement.

The foster-family should provide for the child a complete education and a training to earn his living. It is right that the family should be paid for the trouble and expense, but as soon as the child is able to earn his living he should receive fair wages for his work.

It is necessary that the foster-family, as well as the intermediary societies, should be under public control.

It would be useful to establish special courses of lectures and conferences dealing with the fundamental principles of the education of delinquent children and in choosing foster-parents to give preference to those persons who have attended, with profit such lectures and conferences.**

**Besides, a motion is adopted to recommend that boarding out should be advised in every case where possible, not only for children who are dealt with by justice, but also in the case of children who are morally abandoned.