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# **The Pedagogical Concept of Penitentiary Reforms by Johann Heinrich Pestalozzi. Vision, Contexts, and References**

## **Abstract**

The text is devoted to the analysis of Johann Heinrich Pestalozzi's pedagogical concept of reforming criminal legislation, modernizing the prison system and dealing with convicts. Although this is not the main axis of his work and covers only a few texts, the message contained in them, supported by the author's practical activity, makes him considered one of the main prison reformers of the late 18th and early 19th centuries, the mental father of the first wave of Swiss penitentiary reforms and the protoplast of the educational view of the purpose of imprisonment. After an introduction, the importance of Pestalozzi's work and activities for modernizing the prison system is presented, followed by an analysis of his proposals in this regard. However, not only a presentation of his views on the treatment of criminals and the handling of convicts was made, but also the contexts and references of his ideas were extensively outlined, referring to his literary works, his practical outreach and education activities, but also illustrating his immersion in the current of reforms of the time and references to figures with whom he worked and valued. The author hopes that this will put Pestalozzi's visionary postulates into a broader perspective.

## **Keywords:**

Pestalozzi, Switzerland, prison system, penitentiary reforms, education, convicts

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## 1. INTRODUCTION

Johann Heinrich Pestalozzi (1746–1827) was an outstanding and widely known Swiss pedagogue, Enlightenment thinker, activist for the improvement of many socially disadvantaged people (especially those from the lowest strata and suffering from poverty), as well as a teacher of other significant pedagogues of the nineteenth century, such as Friedrich Wilhelm Fröbel, the founder of preschool education (Heiland, 2000; Kierski, 1927c, pp. 37–39), or Carl August Zeller (1774–1840), who introduced Pestalozzi’s methods into the public education system in Prussia (Sander, 1900). He has been a source of inspiration for those who design and conduct educational activities, and the message contained in his works, despite the passage of time, retains its relevance also in the contemporary world. It is true that in Swiss Enlightenment he occupies a “separate and special place” (Wojtowicz, 1976, p. 130) due to his enormous literary achievements, innovative methods of didactic work, and immersion in the current of European transformations, based on the ideals formulated by Immanuel Kant (1784).

Pestalozzi’s achievements in the field of pedagogy, didactics, and teacher education are widely known and there is no need to refer to them again in this text. It aims to present and analyse the concept of dealing with criminals and the postulates of penitentiary reforms, which can be found in the Swiss’s works, and his activity aimed at promoting the idea of humane treatment of prisoners and their upbringing. It is also important to present the historical background and episodes from the life of the Helvetic visionary, and the contexts and references present in his works, including the interweaving of literary fiction with real events and people with whom he had contact, or valued and admired them. This will give us a more accurate picture of his views on penitentiary issues, and many of them will become more understandable by showing their background and inspiration. At the same time, Pestalozzi’s great involvement in the issues he wrote about will be visible, not only in the narrative layer, but also in practical activity for helping the weaker and formulating expectations towards the state and the authorities.

However, it is impossible to ignore the main ideas present in Pestalozzi’s work, as they are also reflected in his works devoted to prison issues. Here, I share the view of Feliks Kierski (1927) that it is possible – of course, being aware of a certain simplification of the enormous and multifaceted legacy of the Swiss – to grasp the basic message of his literary work in three basic areas: the concept of the family as an educational and social model, the idea of humanity capable

of social development, since the natural inclination of the people who make it up is development, and the commandment of love as the only effective factor constituting interpersonal bonds (Kierski, 1927a, p. 74).

These aspects were present not only in his publications, but also in his activities in the field of education, upbringing, and care for the neglected and the poor, especially children and young people, as well as people from rural areas. Running factories in Neuhof (Schmid, 1847; Kierski, 1927a, pp. 52–63), Stans (Kierski, 1927b, pp. 65–75), Burgdorf (Kierski, 1927b, pp. 76–96, 118 et seq.), and the Institute in Yverdon (Kierski, 1927c, pp. 29–53, 60–66) can be given here as examples. Unfortunately, despite their noble intentions, these activities sometimes ended in financial disaster. This was in no way due to errors in educational solutions. Pestalozzi simply did not know anything about economics and, believing too much in the efficiency of economic processes, did not consider the infertility of the land located on his estates, and rigidly adhered to his goal, despite the visible signs of impending failure.

An example of this approach can be found in the history of the agricultural-industrial-educational establishment founded on the Neuhof estate (Schmid, 1847; Kierski, 1927a, pp. 52–63). It was intended for abandoned and homeless girls and boys aged 10–16, who were mainly begging before coming to it. Initially, it had a capacity of 20 seats, and then, after raising funds in a social fundraiser, it was expanded to 50 places. The staff was numerous – 14 people in total. However, the institution fell into economic ruin and was dissolved in 1780, while Pestalozzi himself was left practically destitute. However, the concept of pedagogical work was so intriguing and resonant that it became not only the basis of Pestalozzi's activity in subsequent places, but also inspired the work of other visionaries of care and work with neglected children and adolescents.

That was the case, for example, with the Hofwil factory in the canton of Aargau, founded in 1810 by Count Philipp Emanuel von Fellenberg<sup>1</sup>, where a system of resocialisation was developed, based on the model of upbringing in the family and family life, the so-called family system, also known as the Swiss system (Kierski, 1927a, p. 62; Dukaczewski, 1990, pp. 15–43). The centre took in poor children, caught by the police for vagrancy and begging, orphans, but also people from the so-called “good homes”, spoiled by lack of interest or their parents. Its first director was a young teacher, Johann Jacob Wehrli, who ran it in an excellent way until

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<sup>1</sup> It was built on the Wilhof estate, acquired by Count Daniel von Fellenberg in 1793 after draining the land in the canton of Aargau, then passing it on to his son, Philipp Emanuel.

1833<sup>2</sup>. Pestalozzi was associated with the von Fellenberg family for many years, especially with Philipp Emanuel's father, Daniel, who lent him landed estates and buildings to run various types of educational institutions (Dukaczewski, 1990; Kierski, 1927a, 1927b, 1927c). This is quite an important remark from the point of view of the subject of this work, as the figure of the Count is referred to in his texts devoted to prison reforms.

The pedagogical ideas that guided Pestalozzi's practical activity were also reflected in the work of the Swiss, at least since the publication in 1780 of *The Hermit's Evenings (Die Abendstunde eines Einsiedlers)*, a rather short work, constituting a collection of aphorisms with the author's thoughts on education, understood as educating and developing the inner strength of human nature (Pestalozzi, 1845). However, the first, more extensive attempt to expound his views on education and helping the needy was an "agricultural romance" in four volumes entitled *Lienhard und Gertrud*<sup>3</sup> (*Leonard and Gertrude*), published in 1781–1787, considered his most outstanding literary work. It brought him worldwide fame and significantly improved his financial condition, being for him the "last resort" after the Neuhof disaster, when he no longer had enough money to support himself.

It is worth dwelling for a moment on its plot, as the Swiss's vision of penitentiary reforms interweaves threads from the first and second volumes of the publication (Pestalozzi, 1781; 1819).

In *Leonard and Gertrude*, he depicted the fate of the inhabitants of the village of Bonnal, where poverty and declining morals prevailed, for which the responsibility was borne by a corrupt mayor (*Untervogt*) and simultaneously the owner of a local inn with the right to tavern, named Hummel. Its prototype was Pestalozzi's collaborator – Merki, who helped him acquire land for a farm in Birr, which he was sorely disappointed with (Kierski, 1927a, pp. 52, 121). In any case, it was not only Hummel who was to blame, but also, perhaps, at least equally from the perspective of Pestalozzi's views on the duties of the government and the state in shaping proper social relations – the landowner, who turned a blind eye to such a state of affairs. The situation began to improve only gradually, when the village was inherited by the grandson of the magnate – an enlightened landowner, embodying goodness, Baron Arner von Arnheim.

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<sup>2</sup> Very interesting method Jakob Wehrli's work certainly deserves a wider representation. However, this issue is so broad that its analysis is far beyond the scope of the of this text and could be the subject of a separate, extensive study. Here, it is important to emphasise that one of the direct sources, constituting the foundations of this system, was the activity and legacy of Pestalozzi (Kierski, 1927a, p. 62).

<sup>3</sup> The author of this work is not familiar with the translation of the whole works into Polish.

The main characters are Leonard and Gertrude. Leonard, a bricklayer, had once been in debt to Hummel, and Hummel had agreed not to pursue the debt in exchange for regular visits to the inn, where the unfortunate man spent the money he earned, falling into alcoholism and ruining his family. Gertrude, a mother of seven, cannot stand by as her husband descends and the misery in which she and her children live. So, he complains to Arner, who takes steps to put an end to Hummel's wicked activities, resulting in his trial and conviction (Pestalozzi, 1781; 1819, pp. 15–19, 135–141)<sup>4</sup>. The narrator knows and understands the hardships and problems of the environment for whose welfare and progress he is fighting. It is also characterised by love for people, especially the poor, the weak, and the oppressed. Its aim is to improve the functioning of the state through universal education (*Volksbildung*) (Krebs, 1978, p. 68).

From a pedagogical point of view, the most important issue in *Leonard and Gertrude* is the concept of schools for peasant children, which – at the primary level – should be accessible to all and occupy a central place in the educational system. On the other hand, the author emphasises the role of the family and its fundamental importance for the upbringing and development of the child. Both institutions are to be integrated into the life of the local community, guaranteeing its revival and progress. Pestalozzi also developed his theory using characters from this work, e.g., in an extensive lecture on his own method of upbringing and education, “How Gertrude Teaches Her Children” (Pestalozzi, 1909; 1955).

This introduction, with the outlining of some threads of Pestalozzi's pedagogical concept and activity, is an introduction to the analysis of penitentiary issues present in his work. At the same time, the presentation of *Leonard and Gertrude* is a deliberate move by the author, serving to convey the connotation of reform proposals with the basic trend of the Swiss's work, since both Hummel and Baron Arner von Arnheim are figures who appear in texts on this subject. This also applies to Count Daniel von Fallenberg, mentioned in his notes on the Hofwil factory.

## 2. PESTALOZZI IN THE TREND OF PENITENTIARY REFORMS

Pestalozzi is known primarily for his achievements in the field of upbringing and education of children and youth. However, he also dealt with issues of criminal legislation, sometimes referred to as “criminal” (Kierski, 1927a, p. 93) and dealing

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<sup>4</sup> The author is not aware of the translation of the entire work into Polish. The Polish reader can get acquainted with a brief overview of its content edited by Feliks Kierski (1927a, pp. 76–86).

with criminals and convicts. Admittedly, this is not the main axis of his work and includes only a few texts, but the reflections contained in them can be found in the entire work of the Swiss. The idea of humane treatment of evildoers, the commandment of mercy, the necessity of upbringing and education, especially people from the lowest social strata, support for the poor, counteracting poverty, and the responsibility of the state and magnates for harmonious development and social progress, are issues constantly present in his writings, not only those devoted to prison issues.

As mentioned, his literary legacy in this genre does not look impressive in terms of the number of publications. In fact, it includes only three publications, the last of which has not survived to the present day and we know about it from Pestalozzi's correspondence. In chronological order, these are: *Ueber Gesetzgebung und Kindermord (On Legislation and Infanticide)*; (Pestalozzi, 1780/1783), *Arners Gutachten über Kriminalgesetzgebung (Arner's Expertise on Criminal Legislation)*; (Pestalozzi, 1782), and *Memöire, öffentliche Kinder, Züchtlinge und Verbrecher für den Staat nützlicher zu versorgen (Memorial on the Proper Treatment of Homeless Children, Prisoners, and Criminals)* (Kierski, 1927a, pp. 148–150). However, “penitentiary aspects” can also be found in his fiction, such as the story of Hummel's conviction and imprisonment, described in the second volume of *Leonardo and Gertrude* (Pestalozzi, 1819, pp. 15–19, 135–141).

However, this subject is not particularly exploited by scholars of Pestalozzi's work, at least in our country. Even in probably the most extensive Polish work devoted to him (Kierski, 1927a, 1927b, 1927c) it is described on only eight pages (out of nearly 500 pages in three volumes), most of which refer to the dissertation *On Legislation and Infanticide* (Pestalozzi, 1783). In fact, half a page is devoted to the prison trend (Kierski, 1927a, pp. 93–94). The situation is a little better in foreign literature, especially in German. There are a few rather short studies, e.g., by Franz Zeugner (1929) and a skilful, though somewhat compact approach by Albert Krebs (1952/53, pp. 17–28; 1978, pp. 66–80), as well as a slightly more extensive dissertation by Anne-Eva Brauneck (1935), written under the direction of Rudolf Sieverts, which is a hundred pages long. This necessitates the need for further research into Pestalozzi's “prison” achievements, to which, in the author's hope, the presented article may contribute.

Pestalozzi's concept of legislative and executive changes concerning the treatment of criminals, despite the scarcity of source material (considering the number and volume of his other publications), had a very wide reach, met with great

resonance<sup>5</sup>, and became an inspiration for his contemporaries, successors, and continuators. From the perspective of many years that have passed since then, the significance of his achievements in this area can be described on at least several levels. Firstly, he is considered one of the pioneers of the prison system of the late Enlightenment, secondly, as the inspirer and “spiritual father” of the first wave of Helvetian penitentiary reforms, and finally, as a precursor of the educational approach to the purpose of imprisonment in Switzerland. Let us take a brief look at these issues.

Pestalozzi’s message was so powerful that scholars of prison history count him among the pioneers of reforms of the late eighteenth century and the late eighteenth and early nineteenth centuries, including John Howard (1726–1790), Heinrich Balthasar Wagnitz (1755–1833), Carl August Zeller (1794–1846), Nikolaus Heinrich Julius (1783–1862), or Theodor Fliedner (1800–1864) (Krebs, 1978, pp. 31–154). Like them, he did not limit himself to publications, but tried to put into practice the ideals and solutions he proposed. In the case of neglected children and the poor, he did it in the centres he ran, which were mentioned at the beginning of this text. As far as penal institutions are concerned, his efforts were rather aimed at influencing the magnates and representatives of the state, who decided on the issues of sentencing and executing sentences against criminals. This feature of activity is well reflected in Pestalozzi’s involvement in the work of the *Illuminati*.

The Union of the *Illuminati* (*Illuminators*) was a secret society founded in 1776 in Ingolstadt by Adam Weishaupt, whose aim was to propagate and implement the ideals of the Enlightenment, but it was banned at the turn of 1784 and 1785. Initially, it functioned only in Bavaria, but over time it expanded its range to Austria and Switzerland (Kierski, 1927a, pp. 147–150). In 1781, a branch was established in Vienna, which Pestalozzi joined, taking the name of Alfred (Kierski, 1927a, p. 148), later even becoming the head of the union for Switzerland (Krebs, 1978, p. 69). Among the many aspects of its activities, the association dealt with respect for the law, including that, e.g., it contributed to the prohibition of torture against prisoners in Austria. It also sought to reach out to aristocrats and magnates in order to be able to implement its postulates more effectively (Krebs, 1978, p. 69).

In 1782, Pestalozzi presented a memorandum to the members of the Union concerning the proper treatment of homeless children, prisoners, and criminals

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<sup>5</sup> However, this resonance was not immediate and widespread, which in a way discouraged Pestalozzi, making him direct his energy to other fields of activity and creativity. This was the case, for example, with his adventure with The *Illuminati* Association. We rather, as is the case with the effectiveness of education, we speak of a “deferred effect” (Śliwowski, 2010, pp. 109–117), although extremely sustainable and conspicuous.

(*Memoire, öffentliche Kinder, Züchtlinge und Verbrecher für den Staat nützlicher zu versorgen*), in which he included his thoughts on the reform of the criminal law and the prison system, known from the earlier published *Ueber Gesetzgebung und Kindermord* and *Arners Gutachten*. However, this text has been lost, and information about it comes from the author's correspondence (Kierski, 1927a, p. 148). However, it did not arouse euphoria among the Illuminati, which discouraged the author from further activity in this association (Kierski, 1927a, p. 150).

Pestalozzi's enormous range of penitentiary concepts made him widely regarded as the inspirer, or rather the "mental father" of the first wave of prison reforms in Switzerland (1822–1864), in which he played a special role (Baechtold, 2009, p. 17). It began in 1822 with the construction of the Geneva Penitentiary (*Maison pénitentiare*), the first panopticon on the European continent, where the Geneva (or European) system was formed. Its end coincided with the opening of the Lenzburg Penitentiary (canton of Aargau) in August 1864, where, also for the first time in continental Europe, the principles of the progressive system of the Irish variety<sup>6</sup> were introduced by the first director – Johann Rudolf Mueller (Schulthess, 2014, pp. 64–77; Hafner, 1901, pp. 512–517; Hafner & Zürcher, 1925, pp. 18–27).

The influence of Pestalozzi's thought on the content and form of the reforms introduced shortly before his death is evidenced, among other things, by the fact that the penitentiary system developed in Geneva was educational in nature and was characterised by religious elements. Initially with a local range, it quickly aroused great interest among professionals and publicists. Among them was the Bavarian lawyer, professor and politician Carl Joseph (Josef) Anton Mittermaier (1787–1867), who proclaimed it the "Geneva system" (European), understood as the opposite and development of the American models (Mittermaier, 1843, p. 585): "A European system is defined as one that is based on an educational system (*Erziehungssystem* – author's note), treats prisoners as other human beings, as far as possible, taking into account that prison is an ailment, is also oriented towards human emotions and inclinations, and above all, seeks to influence religious and moral activities (*Unterricht*), in which isolation and the obligation of silence will be applied as far as necessary as a means of educating prisoners" (Stratenwerth & Bernoulli, 1983, p. 128).

Pestalozzi's inspirations were also present in the implementation of the progressive system in Switzerland, which occurred in the so-called "second wave of reforms" (Hafner, 1901, pp. 518–522; Hafner & Zürcher, 1925, pp. 28–31).

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<sup>6</sup> Detailed information about ZK Lenzburg can be found in the comprehensive publication by Peter M. Schulthess (2014).



Its origins can be traced back to the opening of the Lenzburg Penitentiary in the canton of Aargau in 1864 (Hafner, 1901, p. 518) and subsequent ones, e.g., a small facility with panopticon architecture in Baselstadt, which was much less popular in the literature on the subject, with 150 cells (Hafner, 1901, p. 519). It ends with the opening of the Cantonal Penitentiary in Regensdorf in 1901 (Hafner, 1901, p. 518)<sup>7</sup>.

And finally, Pestalozzi's enduring and indisputable position in the current of penitentiary reforms is evidenced by the fact that in the literature on the subject he is one of the fathers of the educational approach to the purpose of imprisonment in Switzerland (Baechtold, 2009, p. 42; Kunz, 2015, p. 131). For more than two centuries, it has paved the way for successive proponents of pedagogical thinking about the impact on convicts in this country, as this approach remained valid there at least until the beginning of the 21st century<sup>8</sup>, and in the case of juveniles, and the so-called "adolescents", *Heranwachsende*, and "young adults", *junge Erwachsene* is still in force today. These include Carl Stooss, the representatives of the Federal Council (*Bundesrat*), who in 1918 adopted the Speech (*Botschaft*) on the draft of the first Swiss-wide Criminal Code, which was educationally oriented, as well as the representatives of the political bodies that adopted the act of 21 December 1937 (Baechtold, 2009, p. 42).

The pedagogical approach has been present in dealing with persons deprived of liberty in Switzerland for many years and corresponds to the "educational concept", the "Erziehungsgedanke", which is historically rooted in Swiss law (Baechtold, 2009, p. 34; Kunz, 2015, p. 131), and its origins date back to the second

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<sup>7</sup> Even a brief presentation of these issues is far beyond the scope of this text. Interested readers are referred to the Swiss literature on the subject (Hafner, 1901; Hafner & Zürcher, 1925 pp. 1–40), or the works of Carl Josef Anton Mittermaier (1843, pp. 584–597), and in Polish, e.g., to Leon Rabinowicz (1933, p. 66 et seq., p. 132 et seq.), or Alexander Moldenhawer (1866, Part One, p. 127 et seq, additions to Part Two, Part 13, XXIX).

<sup>8</sup> It was not until the Address of the Federal Council (*Botschaft des Bundesrates*) of 21 September 1998 in the law of amendments to the Criminal Code can be seen a slow departure from directly exposing the educational purpose of imprisonment and moving towards a broadly understood social reintegration of convicts. For it reads, that: "The promotion of the prisoner's 'social behaviour', particularly his or her ability to live without committing crimes, will be defined as the primary objective pursued during the execution of the sentence. This can be interpreted as a task for the prison administration, which consists in the first place of creating an offer that supports the processes of social learning" (*Botschaft*, 1998). This is reflected in Article 37 of the Criminal Code, which states that "The execution of a custodial sentence should have an educational effect on the prisoner and prepare him or her to return to life in civil society". After its entry into force on January 1, 1993, the Act on Assistance to Victims of Crime of 4 October 1991 (SR 312.5) added the following sentence to the purpose of imprisonment in Article 37 of the Penal Code: "It should also seek to compensate for the harm caused to the victim".

half of the eighteenth century and the work of Johann Heinrich Pestalozzi. This way of thinking was based on the conviction, commonly shared in the country's criminal legislation, that the criminal is a defective and immature person, and that the appropriate measures and methods of influence applied to him during the period of isolation will make him return "to the right path", "auf den rechten Weg" (Baechtold, 2009, p. 34).

The Helvetii's educational attitude towards corrective intervention also had another background. There were many small factories there, where the directors were people from the teaching class, including those who were often educated at the Institute in Yverdun headed by Pestalozzi, or at least studied his works. The cantons, which valued their independence, granted them a great deal of freedom of action, so they were able to construct and implement models, the sources of which should be sought in their pedagogical education. Josef Moser, who later became head of the well-known establishments in St. Gallen, can be recalled here: "Moser had previously belonged to the teaching class, but after his election he was sent on a visit to famous foreign penitentiaries at the expense of the state" (Ehrenzeller, 1842, p. 92).

Over time, the United States and Western European countries have moved away from this way of thinking, moving towards a rehabilitative school of criminal law, which, however, has never been particularly strong in Switzerland (Baechtold, 2009, p. 34). As a result, after its collapse, there was no "penitentiary collapse" as we had to deal with in other countries. Moreover, until the amendment of the Criminal Code in 2002, the purpose of the execution of a custodial sentence against adults in Switzerland was an "educational effect": "The execution of a custodial sentence should be educational (*erziehend*) influence the prisoner and prepare him for his return to civil society"<sup>9</sup>.

A prominent place next to Pestalozzi as the progenitor of the pedagogical inspirations of the Helvetic prison system is occupied by Carl Stooss (1849–1934), the author of the draft of the first Swiss Penal Code (Zürcher, 2013). In 1893, he drafted a preliminary draft of the treaty, which included postulates for educationally oriented rehabilitation and reparation (Stooss, 1893a; 1893b). At the first session of the subcommittee dealing with the reform of criminal law, held on July 14–16, 1921, he justified the necessity of applying an educational approach in the execution of a prison sentence in the following way: "The new criminal law cannot neglect to articulate the fundamental idea that the execution of the sentence should

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<sup>9</sup> Schweizerisches Strafgesetzbuch vom 21. Dezember 1937 (Stand am 1. Januar 1995), Bundeskanzlei, Bern 1995, SR 311.0, art. 37.1, author's translation.

educationally affect the prisoner. It must be implemented through the provisions on custodial sentences<sup>10</sup>. On the contrary, in the case of a custodial sentence<sup>11</sup>, due to its short duration, the educational purpose plays practically no role” (Stooss, 1921; Baechtold, 2009, p. 42).

Carl Stooss’s views were fully shared by the Swiss Federal Council (*Bundesrat*), whose representatives expressed the following position in a speech of July 23, 1918 at a meeting on the draft code: “We expect the correction of the convict through education for work and through moral influence of all kinds on the part of the management of the institution” (Botschaft, 1918, p. 14).

After this extensive presentation of the contexts of Pestalozzi’s work and activity, as well as the places that are attributed to him for this reason in the current of prison reforms, let us move on to the analysis of his views in this area.

### 3. PESTALOZZI’S DEMANDS FOR PENITENTIARY REFORMS. ON LEGISLATION AND INFANTICIDE

Chronologically, Pestalozzi’s first concise text on dealing with criminals was the treatise *Ueber Gesetzgebung und Kindermord. Wahrheiten und Träume, Nachforschungen und Bilder (On Legislation and Infanticide. Truths and myths. Studies and Paintings)*, written in 1780 and published in 1783 (Pestalozzi, 1783). However, it is not strictly about prison reform, but rather an exemplification of his views on crime prevention and the tasks of the state in this field. With its references to the treatment of criminals, however, it is an impetus for dealing soon with penitentiary issues, which are presented more precisely in the *Arners Gutachten* (Pestalozzi, 1782).

The crime of infanticide was a serious problem for law enforcement officers at that time, not only because of the gravity of the crime, but also because of its prevalence. This is evidenced by the number of people convicted of this act.

In German-speaking countries at the turn of the eighteenth and nineteenth centuries, based on late medieval legislation, represented by the Penal Code of Charles V of Habsburg (the so-called “Carolina”)<sup>12</sup> adopted in 1532, the sanctions of isolation inc-

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<sup>10</sup> In its two long-term forms: *Gefängnisstrafe* (from 3 days to 3 years, Article 36 of the Penal Code before the 2002 revision) and *Zuchthausstrafe* (the harshest sentence from 1 to 20 years and life imprisonment, Article 35 of the Penal Code before the 2002 revision).

<sup>11</sup> *Haftstrafe*, which is the third and mildest form of custodial sentences from 1 day to 3 months, Article 39 of the Penal Code.

<sup>12</sup> The *Constitutio Criminalis Carolina*, CCC, abbreviated as Carolina, is the code of the Holy

luded four basic categories: the penalty of *Zuchthausstrafe*<sup>13</sup>, public works (*öffentliche Arbeitsstrafe, opera publica*), simple imprisonment (*Gefängnisstrafe*), and imprisonment in a fortress (*Festungshaft*) (Krause, 1999, pp. 45–66). The first of these, the *Zuchthausstrafe*, was meted out to the perpetrators of the most serious crimes. They were mainly thieves of various kinds and guilty of other violations of the law, related to the seizure of property. They formed such a large group in the prison population that the demand for the abolition of the death penalty was raised in the first place. The next group in numbers were infanticides, or women suspected of doing so, and for many, *Zuchthaus* was an act of grace instead of the death penalty. The percentage of women in the “houses of government and discipline” was much higher than that of men because they were rather condemned to public works (Krause, 1999, pp. 50–52).

It is not surprising, then, that rulers, aware of the importance of the problem, and representatives of the world of science, tried to look for various ways to solve, or at least limit, this dramatic problem. One of such activities was the announcement of competitions for literary works devoted to the reform of legal regulations and other methods of crime prevention. And so, in Mannheim in 1780, such a tournament was announced, for which Pestalozzi also entered (Kierski, 1927a, pp. 87–88; Krebs, 1978, p. 69), winning it decisively. He was certainly driven by a desire to contribute to the prevention of evil and tragedy, although economic motivation cannot be ruled out either, since the Swiss was in dire need of money at the time, having been ruined by the collapse of the Neuhof estate. It was not the first and last competition in which he participated. He also competed for and won others, e.g., with his 1781 essay *If it is expedient to limit the luxury of citizens* (Kierski, 1927a, p. 70) and, perhaps encouraged by this activity, he sometimes turned it into a plot layer. This is the case, for example, with *Arners Gutachten* (Pestalozzi, 1782), a work allegedly commissioned by Duke Leopold II<sup>14</sup>.

In any case, the result was an extensive, nearly 400-page dissertation in four chapters (referred to as *Schritte*), containing an analysis of the sources of evil (*die Quellen des Uebels*), proposed remedies (*absichtliche Maßnahmen, die vorgeschlagenen Vorbeugungsmittel*), their expected results, and the presentation

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Roman Emperor and King of Germany, as well as Spain and the Netherlands – Charles V of Habsburg. This act, in force since 1532, was of fundamental importance not only for the unification of the law of the Reich, but also of enormous influence on the shape of criminal legislation in other countries, including, for example, exactly on the territory of today’s Switzerland.

<sup>13</sup> In Polish scientific tradition, sometimes translated as the “house of rule and discipline” (Śliwowski, 1982, p. 36).

<sup>14</sup> However, there are researchers who believe that this is a work submitted for an actual competition (Krebs, 1978, p. 69).

of a distant ideal (*Vorschrift zu einem größern und noch entferntes Ideal*). Much attention was also paid to the unjustifiability of imposing the death penalty on female infanticides (Pestalozzi, 1783, pp. 371–378). However, the style of the narrative is not fluid, the threads intertwine, sometimes they become entangled, and there are also numerous digressions, sometimes called “episodes” by Pestalozzi. He admits this himself, writing about the “mentioned episode, in which the author remains even longer out of his thread and jumps around as if in a dream” (Pestalozzi, 1783, p. 99)<sup>15</sup>, or: “Forgive me, Reader! the chaotic nature of my descriptions (*Bilder*), I present a state of the deepest chaos.... That’s why I could easily talk too much about individual issues...” (Pestalozzi, 1783, p. 69)<sup>16</sup>. For this reason, perhaps the final part of the work is a recapitulation of its basic themes (Pestalozzi, 1783, p. 363).

Pestalozzi sees the causes of infanticide in a number of different factors (1783, pp. 149–278). These are: 1. infidelity and deceit of seducing young men (pp. 149–163), 2. improper punishments for fornication and adultery (pp. 163–174), 3. poverty (pp. 174–201), 4. working conditions of servants (pp. 198–201), 5. fear of revealing the truth about pregnancy to parents, relatives, and guardians (pp. 201–212), 6. the hypocritical sense of decency functioning in society (pp. 212–216), 7. the internal and external consequences of previous vices, such as poverty (*Elend*), vagrancy, ruthlessness (*Rücklosigkeit*), concealment of a crime committed, internal hardening (*Verhärtung*) (pp. 216–227), and 8. improper conditions during childbirth (p. 227 et seq)<sup>17</sup>. They can be grouped into several areas. They seem to be of three kinds: individual (fear of parents, which leaves girls without help, vices, and addictions), social (exploitation by bachelors, poverty, improper working conditions, hypocrisy of society, poor conditions of childbirth), and legal (ineffective punishments for adultery, as well as the senselessness of the death penalty).

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<sup>15</sup> “Eine ..... veranlasete Episode, darinn der Author noch länger außer seinem Gleis bleibt, und wie im Traum herum springt” (Pestalozzi, 1783, p. 99); original spelling, the transliteration of text from fracture and author’s translation.

<sup>16</sup> “Verzeih mir Leser! Die Verwirrung meiner Bilder, ich schildere den Zustand der tiefsten Verwirrung... Ich kann deswegen in einzeln Ausdrücken leicht zuviel geredet haben; ...” (Pestalozzi, 1783, p. 69); original spelling, the transliteration of text from fracture and author’s translation.

<sup>17</sup> In the original version, they are described as follows: “1. Untreu und Betrug verführender Jünglinge; 2. Die rechtlichen Strafen der Unzucht; 3. Armuth; 4. Die Umstände der dienenden Schloß- und Stadtmädchen; 5. Forcht vor Eltern, Verwandten, Vormündern; 6. Heuchlerischer Ehrbarkeits – Schnitt; 7. Innere und aussere Folgen früherer Laster; die äussere Umstände der Mädchen während ihrer Geburtstund” (Pestalozzi, 1783, pp. 149–278); original spelling, the transliteration of text from the author’s fracture.

The pillars of the crime prevention programme (i.e., the previously mentioned “distant ideal”) were to be two aspects: family happiness (*Hausglück*) and religious-moral education. The author describes the importance of this last aspect of influence precisely: “God is the only rock of trembling misery..., whoever does not seek support from him easily falls into the depths of despair” (Pestalozzi, 1783, pp. 14, 363)<sup>18</sup>.

Summing up his thoughts, Pestalozzi gives a simple recipe for preventing this crime: “What are the best possible means to stop infanticide in general? Educating the wicked man to the pious wisdom of a pure and happy domestic life is the only means of stopping the crimes of the people – but this is possible only through the inner perfection of the upper classes and of the authority in whose hands the legislative will is placed”<sup>19</sup> (1783, p. 390).

Thus, the effective prevention of women’s crime requires not only the educational and pastoral measures proposed, but also the duty of magnates and politicians to take responsibility for improving their own moral condition and to make every effort to serve the welfare of the state and its citizens and to show care for social development. These commandments of sacrifice and care of power for the fate of subordinates, including those concerning the treatment of criminals (von Harten, 1945, pp. XI–XII), appeared already in the first volume of *Leonardo and Gertrude* (Pestalozzi, 1781) and were strongly developed in the second volume of 1783, where the trial and imprisonment of Hummel was presented, among other things (Pestalozzi, 1819, pp. 15–19, 135–141). Therefore, let us recall these words of Pestalozzi, full of Enlightenment ideals: “There is no greater and nobler service to God and man than the kindness shown to people who are confused (*verwirret*) by their mistakes – humiliated by shame – destroyed by the punishment meted out to them, needy, like the most dangerous sick people, more than all other people, of care, humanity and love, to renew their brutally destroyed nature and devastated existence” (1819, p. 368)<sup>20</sup>.

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<sup>18</sup> “Gott ist die einzige Stütze des bebenden Elends..., leicht hinab, in die Tiefen de Verzweiflung” (Pestalozzi 1783, pp. 14, 363); original spelling, the transliteration of text from fracture, and author’s translation.

<sup>19</sup> “Welches sind die besten ausführbaren Mittel, dem Kindermord allgemein Inhalt zu thun? Die Ausbildung des gemeinen Manns zu der frommen Weisheit eines reinen u. glücklichen Hauslebens, ist das einige Mittel, den Verbrechen des Volks Inhalt zu thun – Diese aber ist nur durch die innere Veredlung der höhern Stände und der Macht, in deren Hand ddrf gesezgeberische Wille gelegt ist, zu erzielen möglich”; original spelling, the transliteration of text from fracture, and author’s translation.

<sup>20</sup> “Es ist kein Gottesdienst und kein Menschendienst grösser und edler, als die Güte, die man gegen Menschen ausübt, welche durch ihre Fehler verwirret – durch ihre Schande erniedriget – durch ihre Strafe verwildert – wie die gefährlichsten Kranken zur Wiederherstellung ihrer gewaltsam

The postulates contained in the work on infanticide constituted the starting point for outlining the proposals for penitentiary reforms, also imbued with Enlightenment ideals, presented in a more precise way in *Arners Gutachten* (Pestalozzi, 1782).

#### 4. ARNERS GUTACHTEN

*Arners Gutachten* (*Arner's Expertise*) is a work that is primarily referred to by researchers of Pestalozzi's views on dealing with convicts. It set the direction of penitentiary reforms quite precisely, and the message it contained was a strong inspiration for changes in the Helvetic prison system, although its scope extended far beyond the borders of Switzerland.

The period of the late Enlightenment was a time when postulates for changes in criminal law and the treatment of criminals began to be formulated in a systemic and orderly manner. A milestone, it seems, was the publication in 1777 by John Howard of the fundamental work, *The State of the Prisons in England and Wales, with preliminary observations and an account of some foreign prisons* (Howard, 1777), containing not only a report on the current state of the prisons, but also bold proposals for reforming them. It found a very wide resonance not only in Europe but also in the United States, and Howard's thought, falling on fertile ground, slowly began to bear fruit.

It was no different in German-speaking countries. The first translation of the publication, by Gottlieb Ludolf Wilhelm Köster, was published in 1780, followed by Christian Friedrich Ludwig in 1791 (Friederich, 2013, pp. 133–135). Howard soon published further parts of his work (1780 and 1784), in which he also described his visits to Swiss factories (including Basel, Bern, Lausanne, Zürich). The picture that emerged from them, to put it mildly, did not inspire optimism. The philanthropist bluntly confirmed what was already widely known: there was an urgent need to modernise the prisons there. Although it took nearly half a century for the first systematic implementation of reforms in Switzerland (the "first wave"), many people and organisations took intensified action in this direction immediately after the publication of the *Report on the State of Prisons*. A good example was the activity of the company founded in 1786 in Zurich, the

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zerstörten Natur und ihres verheerten Daseyns, mehr als alle andere Menschen, Schonung, Menschlichkeit und Liebe nöthig haben" (Pestalozzi, 1819, p. 368); original spelling, the transliteration of text from fracture, and author's translation.



“Asketische Gesellschaft”<sup>21</sup> headed by Johann Casper Lavater<sup>22</sup> (Baechtold, 2009, p. 17). Johann Heinrich Pestalozzi was among them. Highly well-read, erudite, he knew and studied Howard’s writings, and although he did not openly admit it, *Arners Gutachten* “is imbued with the same spirit” (Krebs, 1978, p. 68).

After the publication of the first volume of *Leonardo and Gertrude* in 1781, Pestalozzi began to look for new forms of communication of his thoughts and views, such that the reach would be large enough to reach the widest possible audience, especially the common people. And so, in 1782, he began publishing the magazine “Ein Schweizer Blatt” (weekly), where he mainly printed his own texts on various subjects (dissertations, articles, short stories, aphorisms, or posthumous memoirs). However, even this project, although intended to be correct, turned out to be a dud, as its literary style was too hermetic for a less sophisticated reader (Kierski, 1927a, pp. 92–93). Thus, as in the case of Neuhof, his economic ignorance made itself felt, and Pestalozzi, tired of having to submit the next issue every week, stopped publishing the journal at the end of the year. However, we find there a real “gem” from the point of view of the subject of the presented text.

In the first volume of “Ein Schweizer Blatt”, in numbers 19-23, he published an extensive philosophical treatise *Arners Gutachten über Kriminalgesetzgebung* (*Arner’s Expertise on Criminal Legislation*, hereinafter: *Expertise*), which had the ambition of a scientific work (Pestalozzi, 1782). Based on the *Expertise* and its appendices, depicting the imprisonment of Hummel and the imposition of a church fine (*Kirchenbusse*) on him, he formulated very progressive, for those times, postulates of prison reform, which was to be educationally oriented. Following his views on the nature of man, he considered the criminal not as a villain and a sinner, but as an “ill-mannered” and sick person who could be restored to society by means of educational measures (*Erziehungsmaßnahmen*). A careful reading allows the text to distinguish, among others, the assumptions of the teleological approach to punishment, the foundations of the progressive system, the rational organisation of prisoners’ free time and the forms of spending it, or the means of security and supervision (Pestalozzi, 1782, pp. 347–362).

In fact, *Expertise*, despite its very realistic form, is a literary fiction. It is a presentation of the author’s own views in the form of a response (precisely:

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<sup>21</sup> One can read about the association and its activities in Friedrich Meyer’s study (1868).

<sup>22</sup> Pestalozzi himself wrote to Lavater asking for help when he was left destitute after the ruin of Neuhof. He asked him to use his extensive contacts to find him a decent job. However, he did not have the best opinion of Pestalozzi and did not accede to the request (Kierski, 1927a, pp. 67–68).



an “expert opinion”) by Baron Arner von Arnheim (an enlightened landowner embodying goodness, a hero already introduced in *Leonard and Gertrude*) at the request of Prince Leopold II, on the state of penal legislation and the prison system.

In Pestalozzi’s works, the plot layer is sometimes intertwined with reality, where we find numerous contexts and references to the times in which he lived, as well as the characters of people with whom he collaborated or admired, introduced in a rather discreet way. This proves not only his prosaic talent, but also his personal involvement in the issues he wrote about, especially education and upbringing, helping the weaker and oppressed, and formulating high demands on the authorities and the state in this area. An example of such a writer’s mannerism, concerning the modernisation of the prison system, is *Expertise*.

Already in the first part of the text (Pestalozzi, 1782, p. 289), the author addresses Mr. F... g v. W..st.n (*An Herrn F... g v. W..st.n*), probably to Count Daniel von Fellenberg, governor of Bern, who ruled the province of Schenkenberg from his seat at Wildenstein Castle from 1779 to 1785. He is a historical figure – a professor of law sitting at the Bernese Academy and father of Count Philipp E. von Fellenberg (Guggisberg, 1951, pp. 55–95, 146–179). It was Count Daniel who, in 1793, after draining the land in the canton of Aargau, purchased the Wilhof estate, where his son in 1810 opened the mentioned centre under the name of Hofwil, where a system of rehabilitation called family or Swiss was developed. Pestalozzi was acquainted with Fellenberg, as Wildenstein Castle was located near his Neuhof estate. “Fellenberg... with whom Pestalozzi was close and often associated...” (Kierski, 1927a, p. 151), and his son admired *Leonard and Gertrude*”.

Only a few lines later, another context emerges when Pestalozzi writes: “Prince Leopold’s request in .... to Baron von Arnheim...”; “Leopolds Herzogs in ... An-sinnen an den Freiherrn von Arnheim...” (1782, p. 289). From the point of view of prison reforms, this passage requires a broader commentary.

While *Leonard and Gertrude* was intended to be a story for the masses, the people, and a wide audience, in *Expertise*, the author addresses one specific person directly, and one can suspect that he is referring to Prince Leopold II (Krebs, 1978, p. 68). Where does this narrative device come from? Pestalozzi’s short note in the *Project of the Hermit’s Evenings* from 1779/80 (Pestalozzi, 1995, pp. 245–262) sheds some light on this. There is a mention of a contest announced by the prince for a work devoted to how to deal with criminals in the most humane way: “I once heard a farmer who was told that the prince had announced a contest (for a work about it – how to deal with criminals in the most humane way...” (Pestalozzi,

1995, p. 260)<sup>23</sup>. It is difficult to say whether this was true, although this opinion is expressed by, e.g., Albert Krebs (1978, p. 69). If so, *Expertise* would be another work for the Swiss composer (such as *On Legislation and Infanticide*) and it would be appropriate to refer to the figure of Leopold. However, if it was only a literary fiction, then perhaps the figure of the prince was evoked in appreciation of his achievements in the field of criminal law reform. Either way, it behoves us to pay some attention to it.

Leopold II of Habsburg was the Grand Duke of Tuscany at the time of the creation of the *Expertise*, which from 1737, after the end of the Medici dynasty, passed into the hands of the Habsburg dynasty (Wereszycki, 1986, p. 108; Krasuski, 2004, p. 133). A man of “very outstanding intelligence” (Wereszycki, 1986, p. 154), the “last outstanding Habsburg ruler” (Wereszycki, 1986, p. 155), ruling Tuscany for 25 years, focused on domestic politics and undertook numerous and bold reforms, also in the field of criminal law and the treatment of convicts. He knew and appreciated the work of Cesare Beccaria created in 1764, *Dei delitti e delle pene* (*On Crimes and Punishments*) (1951). Guided by its message of humanisation of dealing with prisoners and the ideals of the Enlightenment, he introduced a new Penal Code *Riforma della legislazione criminale di Toscana* of November 30, 1786 (known as *Leopoldina*). The act, despite its local scope, was very progressive. It abolished the death penalty, corporal punishment, and other shameful punishments. At the same time, he expanded the prison sentence, although its execution was to be carried out in a very strict regime (Schlosser, 2010; Sójka-Zielińska, 2000, p. 299).

Therefore, if the mentioned competition really took place, then perhaps Leopold II also used the materials influencing him when designing his reforms. In this sense, the Swiss could even have some influence on the shape of the Tuscan Codex. However, the author of this text is not aware of any scientific sources that could verify this hypothesis. But Pestalozzi’s literary device proves that he was deeply involved in penitentiary issues and sought sources of inspiration wherever possible.

However, let us move on to the analysis of his views on the reforms of criminal legislation and the treatment of convicts, included in *Expertise*. At the outset, the author emphasises the urgent need for changes in criminal law, arguing that influencing convicts is the responsibility of the state, so it should develop and im-

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<sup>23</sup> “Ich habe einmal einen Bauern sagen gehört, als mann ihm sagte, ein Fürst habe einen Preis ausgeschrieben, wie mann mit Verbrechern am menschliten umgehen könne ...” (Pestalozzi, 1995, p. 260); original spelling, author’s translation.

plement humane ways of treating them, serving the purpose of criminal prevention (“limiting the sources of crime”):

The influence on the prisoner is one of the measures taken by the state to limit the sources of crime, and here lies the proper essence of the guidelines as to all the principles constituting a true and realisable humanity expressed in the manner in which it affects prisoners, as well as the basic sources of the following rules which I consider relevant in this regard (Pestalozzi, 1782, p. 348)<sup>24</sup>.

Therefore, once again, the theme of the responsibility of the state and the authorities for the humane treatment of the needy and helping them in the spirit of mercy and care for social development appears in the excerpt. In the following pages, he specifies what this interaction is to look like (Pestalozzi, 1782, p. 348).

Thus, the period of isolation should be used to develop the ability to lead a life in a way that “counteracts the internal sources of criminal behaviour”. Certainly, one should not be in a hurry to release “incorrigible” prisoners (*ungebessert*). After leaving the institution, they should be placed under increased surveillance and reports should be made on their conduct (“on behaviour, forms of entertainment, and domestic situation”), and in case of symptoms of progressive demoralisation, this should be reported to the court as soon as possible (Pestalozzi, 1782, p. 348).

Therefore, for Pestalozzi it is obvious that the prison sentence should be treated in a teleological way, the execution of which is intended to serve the social reintegration of the perpetrator, and not indefinite detention (because we are talking about release) while awaiting the execution of the death sentence. At the time, this was not the standard at all in Switzerland, reluctant to accept the imposed, in the opinion of its citizens, and often mentally alien ideals of the French Revolution. After the fall of the Helvetic Republic in 1803, many cantons rejected Napoleonic legislation, reverting to the Carolingian Code (*Constitutio Criminalis Carolina*, CCC), which sanctioned many types of death punishment, torture, and allowed only exceptional imprisonment. It was only after the amendment of the Swiss Constitution on April 19, 1874 that the death penalty was abolished for the first time at the national level, although it had already been abandoned locally (e.g.,

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<sup>24</sup> “– Die Behandlung des Gefangenen gehöret mit zu den Mitteln des Staates, den Quellen der Verbrechen Einhalt zu thun, und hier liegt der eigentliche Mittelpunkt der Richtschnur aller Grundsätze, der wahren und ausführbaren Menschlichkeit in der Behandlungsweise der Gefangenen und die Grundursachen der folgenden Regeln, welche ich über diesen Gegenstand für wahr halte –”; original spelling, the transliteration of text from fracture, and author’s translation.

in 1869 under the Constitution of the canton of Zurich). However, it was soon reinstated, and the last sentence was carried out in the canton of Samen on October 18, 1940 (Wojtowicz, 1976, pp. 146–155; Schulthess, 2006, p. 6).

However, in Pestalozzi’s reflections, we find not only teleological approaches to punishment, because it was not only the tasks of – today we would call it – special prevention that were at heart. There are also proposals for guardianship or supervision and the related need to protect the society and early intervention in case of recidivism.

His deep faith in the inner good of man finds expression in his recommendations for dealing with convicts. The ultimate goal of the execution of punishment in all institutions is to “reawaken in the prisoners a sense of their duties and of all that is beautiful, noble, and good” (Pestalozzi, 1782, p. 350)<sup>25</sup>. As we can see, apart from the exemplification of the teleological view of the penalty of imprisonment, other elements are introduced, such as the need to unify the penitentiary policy so that its overriding goal is the same everywhere. In federal Switzerland, it was, and unfortunately still is, very difficult, and parliamentary accusations of inconsistency in the legislation of individual cantons at the national level are becoming one of the main problems of the country’s prison system (*Bundesamt für Justiz*, 2014).

In influencing the convicts, Pestalozzi advocates a “complete re-formation on the path of perfect improvement” and preparation “for functioning in the community of one’s state” (Pestalozzi, 1782, p. 348). Thus, we are dealing with purely rehabilitation recommendations and tasks in the field of social reintegration of offenders (of course, into an environment corresponding to their social position). Therefore, the period of serving the sentence is intended to create a new identity of the prisoner, achieved through correctional proceedings and the formation of behaviours consistent with social expectations.

Elsewhere, the author writes that criminals cannot be released from justice without first trying to establish the general regularities of deviant behaviour, and that they themselves should be trained to look for factors to prevent recidivism (Pestalozzi, 1782, p. 349). Therefore, the protection of the public even takes the form of risk management (or rather its estimation) according to today’s nomenclature. There are diagnostic elements and the cooperation of prisoners in the process of social reintegration, prompting them to self-education. Moreover, this corresponds to Pestalozzi’s view of man’s natural inclination to act in the right way. Although

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<sup>25</sup> “Deshalb müssen alle Gefängnisse und Zuchthäuser auf einen Fuss gesetzt werden, der dem Endzweck, die Gefangenen zum Gefühl ihrer Pflichten und alles dessen, was schön, edel und gut ist, zurückzuführen, angemessen ist” (Pestalozzi, 1782, p. 350); original spelling, the transliteration of text from fracture, and author’s translation.

this text is nearly 250 years old, we find in it the modern canons of imprisonment, which is sometimes referred to as “aid to self-help”.

*Expertise* also introduced a postulate for the abolition of indefinite imprisonment (*für hundert und ein Jahr*, one hundred years and one year, the term for life imprisonment at the time), justified by the need to offer everyone hope for a better tomorrow, including hope for release. According to Pestalozzi, it will become the basic impulse for the re-formation of one’s own dignity, love for oneself and others, and the conviction that even criminals are fit for a better life, and that honest conduct is “healing” (Pestalozzi, 1782, pp. 349–350).

Finally, Pestalozzi proposes that children be taken away from evildoers and brought up by the state until “morals improve” in the family home, since it is the “decline of morals” in the family that can be a potential source of crime (“the spirit of crime is repeated in the lives of children”) (Pestalozzi, 1782, p. 350). On the one hand, this recommendation is marked by concern for the welfare of the child, as exemplified by the activities of the centre for the poor in Neu Hof, which he manages. Pestalozzi had already appealed for the universality of state education, especially for children from neglected and peasant families, in *Leonard and Gertrude*, where elementary school was to be the basis of the educational system. On the other hand, ruthlessly taking offspring away from their parents seems to be too categorical today.

In *Expertise*, Pestalozzi also presented his views on the functioning of “criminal law institutions” (the prison system) carrying out longer prison sentences. This should take place in vast territorial fortresses (*Festung*), although the author did not specify what they would look like. The convicts were supposed to work in the cultivation of vegetables and fruits, but under strict supervision. Only in exceptional cases, were they allowed to stay in large groups, and usually in smaller groups or alone, which was guaranteed by their careful selection. It was necessary to employ teachers (*Lehrer*) – people highly qualified in dealing with inmates, serving both the primary purpose of the institution and taking into account the individual characteristics of the inmates (Pestalozzi, 1782, p. 352). Each of the new prisoners was to be given time (a few weeks) to familiarise himself with the specifics of all the available jobs in the fortress and to test his abilities on them, and thus to decide on the one that suited him best. Moreover, he could even choose the master under whom he would like to work (Pestalozzi, 1782, pp. 359–360).

Summing up his reflections on penitentiary reforms, Pestalozzi states that: “Prison and forced labour are nothing else and should be nothing other than a school that enables a man who has gone astray to return to the rails and to the state in

which he would have found himself if it had not been for his deficits (*Verirrung*)”<sup>26</sup> (Pestalozzi, 1782, p. 358).

As we can see, *Expertise* is a multi-layered work with enormous potential, testifying to Pestalozzi’s erudition, his sensitivity to the problems of the misery of the convicts, and the shortcomings of the state in designing and conducting a policy of preventing and combating crime. However, it was not enthusiastically received at the time of its publication (Krebs, 1978, p. 78). This may have been due to the limited reach of the magazine in which it appeared. Perhaps the thought contained in it was too bold and too “blinding” with the brilliance of innovation. This is not an isolated situation. Among many similar cases at that time, one can point to the achievements of Georg Michael Obermaier<sup>27</sup>, whose concept of reforms did not immediately find a permanent place in penitentiary theory and practice, about which Leon Rabinowicz wrote: “It was too bold to exert any influence on the penitentiary development of Europe, because, like all great thoughts, it blinded” (Rabinowicz, 1933, p. 48). The same was true of the reception of the idea of the Swiss among the Illuminati. It is also necessary to take into account the lack of uniformity in the functioning of the Swiss state, its federal structure, and the independence strongly emphasised by the cantons, as well as the differences in the wealth and potential of individual cantons. This lack of uniformity was the reason for the difficulties in efficiently carrying out the modernisation of the Helvetic prison system in the nineteenth century, even based on such interesting propositions as Pestalozzi’s (Hafner, 1901, pp. 512–522; Hafner & Zürcher, 1925, pp. 18–31; Krohne, 1889, pp. 88–89).

But the author of *Expertise* lived to see the beautiful fruits of his work quite soon after its publication. The achievements of Carl August Zeller (1774–1840) (Sander, 1900, pp. 28–32) can be recalled here. This pedagogue from Württemberg, a representative of Pestalozzi’s school, entered history mainly thanks to the introduction of his method into the general education system in Prussia. From 1805, he lived in Switzerland, St. Gallen, and Zurich. Conducting courses for teachers and school principals with the Pestalozzi method, he supplemented them with his own ideas, so that soon people began to talk about the Pestalozzi-Zeller method. This brought him a lot of notoriety and made him leave Switzerland soon after,

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<sup>26</sup> “Gefängnis, Zucht – und Arbeitshaus ist nichts anders und soll nicht anders sein als rückführende Schule des verirrten Menschen in die Bahn und den Zustand, in welchem er gewesen wäre, ohne seine Verirrung” (Pestalozzi, 1782, p. 350); original spelling, the transliteration of text from fracture, and author’s translation.

<sup>27</sup> The author will soon present the figure and achievements of Georg Michael Obermaier in an extensive monograph.

and then began the reform of the education system in Prussia at the request of Frederick William III, holding key positions in the local Ministry of Education.

Zeller also made great contributions in the field of prisons. In 1824, he published a work entitled *Outline of the concept of a penitentiary, which is to have a reformatory effect as an educational institution* (Zeller, 1824). Written at the behest of the Württemberg government, it contained suggestions as to how the penitentiary should be organised in order to perform correctional functions, including by dividing convicts into three penal classes. His conception reflects – in a more or less direct way – Pestalozzi’s thoughts (Schattke, 1979, pp. 71–77). Zeller’s work was used in his lectures on the prison system by Nikolaus Heinrich Julius (Frederich, 2013, p. 141).

The strength of Pestalozzi’s pedagogical argumentation, his great commitment and the fact that he was a very well-known person and had a group of famous students, many of whom dealt with penitentiary studies, allowed for the gradual implementation of the themes of *On Legislation and Infanticide*, *Memorial*, and especially *Expertise*, in the trend of modernisation of the prison system. They inspired not only his contemporaries as reformers, but also their successors and continuators, and thus Pestalozzi’s legacy gained more and more reach. Therefore, it is not without reason that he is widely regarded as the father of the first wave of penitentiary reforms in Switzerland, which has been the model for decades, if not centuries, when we think about the presence of a pedagogical element in resocialisation there<sup>28</sup>. In this sense, we can speak of a “deferred effect” of his achievements, as is the case, for example, with the effectiveness of education (Śliwerski, 2010, pp. 109–117), although the effect is extremely permanent and distinctive.

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<sup>28</sup> As previously described, it was in force at the legislative level of the country for adults until the beginning of the 21st century, and to juveniles, young adults, and adolescents and is still up-to-date.



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