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The Bourbon monarchy and prison legislation in Sicily: two competing plans for reform (1826–1830)

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The nineteenth century was a critical phase in the construction of European penitentiary systems. The eighteenth century had seen the evolution of the concept of punishment and the corresponding development of the practice of imprisonment as central to new ideas about penal sanctions. As a result, between 1830 and 1848 grand plans to reform prison systems were put forward in almost all the larger European countries. The Kingdom of the Two Sicilies played its part in this process: an innovative reform plan was developed here, ahead of the rest of the Italian peninsula, which was fully implemented between 1832 and 1845 but had its origins in an earlier period, being given its initial impetus by modernisation on the legislative front. Sicily was particularly rich in terms of legal experimentation in this area. Here, informed by the most recent developments in contemporary science, plans to reform prison legislation were produced as early as the 1820s; these attest to the interest with which lawyers, philanthropists and government officials approached the issue. The analysis of two plans discovered in the *Archivio di Stato* in Palermo is especially helpful in demonstrating the existence of a ‘workshop for prison legislation’ that addressed concrete problems while also being the manifestation of a sophisticated legal culture.

Keywords: Kingdom of the Two Sicilies; prison reform; correctional institutions; penal system; criminal law

Introduction

The triumph of the prison institution as the principal means for delivering punishment was the outcome of a wide cultural debate that started in the second half of the eighteenth century and extended across Europe. The ideas of Jeremy Bentham (Bentham 1791; Duret and Roussel 2006, 104; Garland 1990, 208; Ripoli 1989, 262),¹ John Howard (Ignatieff 1978, 47–57; Tessitore 2002, 47–48) and Elizabeth Fry (Fry 1847; Summers 1994; Trombetta 2004, 68–72), circulating at a European level, provided the basis for the development of a full-blown penology; this entailed the emergence of new problems relating to the identification and establishment of a system that could resolve the old issues effectively.

The first half of the nineteenth century thus saw the initiation and trial of new legal and institutional mechanisms; these were established by the principal ruling dynasties of the period and intended to substantially improve the living conditions of prisoners, aiming at an imagined concept of modernity. Previously, the attitude of the machinery of government towards the

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'prison issue' had been typified by a marked disinterest, but this was quickly replaced by consideration and commitment. These were regarded as prerequisites for achieving the desired social progress, based on the thinking that identified imprisonment as 'the penalty of civilized societies', destined to become 'the detestable solution, which one seems unable to do without' (Foucault 1977, 232). Prison was seen as 'the punishment most consistent with the principle of discipline that ran through modern society' (Catalanotto 1987, 22), and thus as an essential building block for the new bourgeois society founded on the sublimation of concepts of order and discipline.

Across the nineteenth century, learned writing on this topic gave no signs of abating; rather, in step with practical experimentation in the field, it both increased in quantity and improved in quality. Particularly successful during this period was *Du système pénitentiaire aux États-Unis et de son application en France*, the report compiled by Gustave De Beaumont and Alexis De Tocqueville between 1831 and 1832 (Abbruzzese 2005, 7–8; Garland 1990, 11; Tessitore 2002, 141). This volume brought together the accounts of numerous visits to American penitentiaries, paying particular attention to the prisons of Auburn (New York) and Walnut Street (Philadelphia); it became the leading work in relation to reform of the penal system, which the two scholars believed was needed in order to curtail the damage clearly being done by the state of European prisons. This objective would be attained, they argued, by implementing the system that segregated prisoners in cells, thus achieving the goal of separating persistent offenders from others. From this, the system of segregation in cells was elevated to a 'model'. Already introduced in America in the late eighteenth century, this had generated two distinct prototypes: the first was the system of total segregation, in operation since 1786 in the Philadelphia prison; the second system, tried out from the early 1820s in Auburn, partnered segregation at night with the discipline of communal work in conditions of absolute silence during the day (Capelli 1988, 115–119).

The report by De Beaumont and De Tocqueville became the primary point of reference for reformers all over Europe, and was widely read in the Kingdom of the Two Sicilies. Here, the debate about prisons had already involved some well-known figures, including Villabianca and Tommaso Natale in Sicily (Catalanotto 1987, 21–33, 1990, 201–219) and Filippo Volpicella of Naples. The latter was the main architect of prison reform for the whole Kingdom; his book of 1838, *Delle prigioni e del loro migliore ordinamento (Prisons and How Best to Organise Them)*, provided the basis for the Royal Decree of 21 April 1845 which contained the 'Ministerial instructions for carrying out royal commands on the classification, occupation, and religious and moral education of prisoners'. These new provisions not only restructured the administrative arrangements for prisons but also ratified the Bourbon Kingdom's introduction, at least on the theoretical level, of the Auburn model of segregation in cells (Tessitore 2002, 165–215).

Although recognition for reforming Bourbon legislation in this area should thus be given to Volpicella, this article will demonstrate the particular liveliness of the debate in Sicily in the 1820s over the need for reform of the legal and administrative machinery that served the prisons. To best illustrate the key points it is divided into five sections: the first reviews the Sicilian debate on the issue, as conducted by the principal local figures of the period; the second examines arrangements for prison organisation; the third identifies the key stages into which the full course of legislation for reform can be divided; and the fourth and fifth provide a comparative analysis of two plans for reorganising prison administration, developed between 1826 and 1830, which constitute valuable evidence of the high degree of commitment from Sicilian reformers.

The debate in Sicily on the ‘prison question’: influences, proposals and protagonists

Sicilian debate over the need to reform the island’s network of prisons seems to have been strongly influenced by the issues raised within British discussions of the ‘prison question’ in the late eighteenth century. Giovanni Tessitore reports that:

... the possibility of providing Palermo with a building more modern and functional than the notorious *Vicaria* prison, as the centre of the *Grandi Prigioni Centrali*, first surfaced in the thinking of the Bourbon authorities as early as 1812. (2002, 151)

The situation was at that point somewhat disjointed. The Kingdom of the Two Sicilies had yet to be created: its future lands had different masters, Naples being in French hands and Sicily under British protection (Feola 1997, 185). Between 1808 and 1812, French codes and all the other innovations that the Napoleonic regimes had been spreading across Europe were being introduced in Naples; meanwhile around Sicily, where the entire Bourbon royal family had taken refuge, the British fleet and army had set up a protective cordon to prevent conquest by Napoleon. They did not stop at protecting and presiding over Sicily, but took the opportunity to establish British commercial trading (Battaglia 1983) and to inject elements of their cultural heritage (Aceto 1848), which included initiating the debate on penal reform. It is therefore not surprising that in Palermo in 1812, earlier than anywhere else in the Italian peninsula, earnest and informed discussion was under way regarding the need to reform the prison system (Tessitore 2002, 151–152).

Once launched by English influence, the debate in Sicily on this issue was especially rich and well developed, eliciting many contributions from different perspectives: there were technical opinions given by architects and engineers, legal views provided by bureaucrats and lawyers, and finally offerings of a sociological nature developed by philanthropists and scholars of the social sciences.

The revised function then attributed to prisons is neatly illustrated in the writing of Vincenzo Di Martino, the architect in the Department for Bridges and Roads (Sarullo 1993, vol. 1), who in 1822, at his own expense, published his personal reflections on the plans for a new prison in Palermo:

The imprisonment of an accused citizen should be viewed not as his personal destruction, in the manner practised by the barbarism of previous times, but instead as intended to remove him from civil society.

With this as the purpose of imprisonment, it follows that the construction of state prisons must take into account two matters: the first being to guarantee the custody of prisoners, anticipating their every plan to escape, and the second being to provide for their physical wellbeing with healthy air, so that there is no occurrence of the contagious epidemics that are so frequent in badly-built prisons. (5)²

In this work, the Palermo architect took the opportunity to set out his own plan for constructing a prison building, fresh from the drawing board, and incorporating all the most modern insights available from the prison architecture of that period. At the same time, this slim volume provided the means whereby the two main plans already in circulation could be opposed. Both of these aimed to convert buildings that already existed within the *Grandi Prigioni Centrali*: the plan put forward by General Vito Nicola Nunziante (Nunziante 1964, 192–275; Liberatore 1836; Palermo 1839) centred on turning the ‘Quinta Casa’ building into a central prison, while a second project related to conversion of the ‘Spasimo’ building, with a plan developed by a special committee.

On 3 September 1824, in an attempt to cut through this confusion, the Bourbon government decided to establish a commission ‘responsible for examining the plans that have been made for

new premises for state prisons in Palermo'.³ This body, chaired by the army commander-in-chief Ferdinando Sambiasi, Prince of Campana, and also including the Chief of Police, Mariano Cannizzaro, and the Director of Public Prosecutions for the High Court, Giacomo Custor, was charged with analysing the three different options:

... it will start to consider whether the plan to proceed with these extensions and fortifications to the Vicaria prison is preferable to the plan to build a newly designed prison in another location, examining the matter as much with regard to costs as with regard to security, and to convenience. (ibid.)

The commission took approximately a year to discharge its responsibilities, producing a final report on 18 August 1825.⁴ In this brief document, divided into three sections, the high-ranking Bourbon officials unanimously rejected the possible conversion of buildings that already existed within the *Grandi Prigioni Centrali*. Instead, the report welcomed the proposal to build a new prison presented by the architect Di Martino, although it was established that there would need to be some modifications to the original plan, especially regarding determination of the preferred location. On the suggestion of General Nunziante, the commission therefore proposed that the new prison be sited on the 'piano del Ciardone'; it was here that the new 'Ucciardone' prison, with its 'panopticon' structure, was finally opened in 1840.

The decision to build a new penitentiary also established the need to revise the prison legislation then in force, through the preparation of new regulations to ensure that the modern machinery of punishment would work. It followed naturally that from the mid-1820s onwards numerous proposals for prison regulations were developed, including those of 1826 and 1830. Within the processes of regulatory codification, the legal science of southern Italy found its own particular way of interacting with Bourbon political and legal absolutism, concentrating on translating the political and institutional programme of the monarchy into legal terminology (Masciari 2003, 19).

The overwhelming majority of these plans were, however, ill-fated. To explain this we should look to the general role played by legal science in southern Italy, in relation to institutional change and the development of new legislation under way in the Bourbon kingdom. This role largely derived from the execution of responsibilities characteristic of the 'lawyer-official': a highly specialised expert in law who had, however, a minimal impact as regards any changes to southern Italian legal arrangements (De Martino 1994, 33–34; Moscati 2000, 131–161). In fact, leaving aside the activity of officials specifically charged with the pursuit of reform, the updating of Bourbon legislation during the entire Restoration period was brought about by regulatory changes that related to the exercise of absolute monarchical power, and using legal instruments such as the royal decree which were not subject to any review, even of a merely consultative nature (Masciari 2003, 19). Thus Palermo, and Sicily, had to wait until the royal decree of 21 April 1845 to be given new, and innovative, prison regulations.

The evolution of prison administration in Naples and Palermo: from philanthropic to state institutions

In the Kingdom of the Two Sicilies, the first step towards the construction of a new concept of punishment, revolving around the prison institution, was the implementation of the penal code of 1819 (Vinciguerra 1996). The new legislation was characterised by a consistent shift towards more humane punishment, brought about by not only the solemn proclamation of principles that should be interpreted as expressing a sophisticated legal culture – such as the principle of punishment in relation to the individual (Article 1), and the principle of the non-retroactivity

of criminal law (Article 60) – but also, and especially, the abolition of brutal punishments such as the pillory, branding, and the loss of civil rights, and the simultaneous recognition of the central role now given to imprisonment as a vehicle for atonement (Mazzacane 1996, xxxvii).

The centrality of imprisonment, in particular, demanded new provisions aimed at sketching out the foundations for the subsequent management of the Kingdom's prisons. Various measures passed during the 1820s were intended to introduce prison regulations suitable for managing these expanded places of punishment, and to identify an institutional model that ensured that the Kingdom's varied buildings for imprisonment all functioned as effectively as possible. The most effective of these measures were without doubt the changes made at the provincial level, whereas at the central level the action taken lacked substance; rather than being aimed at genuine innovation, it was more linked to needs inherent in the process of evolution of the whole system.

Within the central administration of the Kingdom of the Two Sicilies, responsibilities for prisons never lay with the Ministry of Justice; they were first entrusted to the Ministry of Internal Affairs, and then after 1848 to the Ministry of Public Works. The management of penal colonies, on the other hand, was the responsibility of the naval section of the Ministry of War until 1857, when it was also passed to Public Works (Landi 1977, vol. 1, 272), which fulfilled its obligations by delegating them to a specialist body, the 'Ispettorato generale de' luoghi penali' (Inspectorate for Penal Sites). The rather surprising role of this ministry related to the practice of using manacled prisoners in 'hard labour for the benefit of the State' (ibid., 426).

Away from the centre, the system for managing prisons was, by contrast, much more confused. Before 1820, in the absence of any forms of state intervention aimed at controlling the conduct of prison life, almost all the issues relating to the organisation of the prison service, and consequently the living conditions of prisoners, were passed on to philanthropic organisations on the basis of a tacit agreement with the relevant central apparatus. As far back as the sixteenth century the pitiful living conditions of the Kingdom's prisoners had led to the creation of religious bodies; driven by a strong charitable spirit and the wish to pursue a new social order, these undertook various initiatives in order to alleviate the suffering of the forsaken.

In the city of Naples the *Monte delle quattordici Opere di Misericordia* had played a leading role, having been 'founded in 1601 by seven Neapolitan gentlemen to assist the incurable and imprisoned, to bury all the city's poor, to release insolvent debtors from prison, and to undertake similar charitable acts' (Petitti di Roreto 1837, vol. 2, 123).⁵ It was then excluded from all matters relating to management of the city's prisons through two royal decrees, of 18 December 1817 and 22 April 1820, which led to a general and systematic reorganisation of the entire apparatus for managing penal institutions in the 'domini al di qua del faro' (territory this side of the Strait of Messina).

Turning to the details, we see that the decree of 18 December 1817 established a *Commissione per la vigilanza sulle prigioni* (Committee to oversee prisons), chaired by the prefect and also including the Chief of Police, two administrators, the President and the Director of Public Prosecutions for the High Court. This body was given a range of tasks that included oversight of the state of the city prisons and coordination of the activity within them. Its creation, as well as endorsing the launch of direct involvement by the State in this area, can be thought of as one of the Bourbon government's first efforts intended to bring the entire management of prisons in the Kingdom's capital into line with uniform and coherent standards. However, one single body would have had great difficulty in dealing with the organisation of all the city's prisons, and those out in the province would in any case have been excluded. It was therefore quickly realised that the *Commissione* needed to be replaced by a more developed management system.

The subsequent royal decree, of 22 April 1820, therefore replaced the *Commissione per la vigilanza sulle prigioni* with a *Soprintendenza* (Superintendency), to be supported in carrying out its duties by a range of provincial committees. This body, presided over by the prefect of the province of Naples, was also to have two administrators, three financial inspectors, a secretary, an accountant and an unspecified number of employees, while each committee was to be led by the prefect of the relevant province, and also included the Director of Public Prosecutions for the High Court.⁶

The *Soprintendenza* and the provincial committees were charged with:

... supervision of the maintenance of premises and order within prisons, of the sustenance of poor prisoners, of treatment of the sick, of clothing the most needy, of the performance of duties by each employee, and of the conduct of prison guards and clerks, appointed by the police, so as to curb persecution suffered by the imprisoned. (Landi 1977, vol. 1, 380–381)

The two bodies thus had the same responsibilities, but within their respective areas of competence; the performance of all tasks relating to the financial management of places of punishment was delegated to them, as was everything relating to prison administration, while the police force continued to perform tasks relating to the maintenance of internal order and security.⁷ The system was logical: it was furnished with suitable institutions and regulations, and based on a system that covered the whole territory. The well-structured apparatus fully demonstrated the reforming intentions, and the desire to innovate, of the officials serving the house of Bourbon (Coppola 1961).

Sicilian prisons, whose management was characterised by a complete lack of uniformity and coherence, had a different fate. On the island, where the royal decrees of 1817 and 1820 were never received nor implemented, management of the buildings was much more haphazard and for a long time remained in the hands of charitable bodies operating at a local level. The administration of penal institutions thus varied from one area to the next, and from city to province, according to a model based on improvisation. Appropriate bodies were not set up and, more generally, there was no apparatus that could offer uniformity and coherent management to the whole system.

In Palermo, starting in the sixteenth century, the ‘cordari’ (rope-makers) operated:

One of the many guilds that existed in the island’s capital, they would collect money by begging in order to buy food and bedding for the imprisoned. This activity did not go unnoticed by the authorities; while praising their noble intentions, they feared that these beggars, being poor people themselves, might appropriate some of the money they collected. (Girgenti 1973, 277)

On 15 June 1627 the viceroy, Don Arrigo Pimentel, Marquis of Favara, therefore founded the *Venerabile Opera di Nostra Signora di Visita Carceri*, subsequently known as the *Deputazione di Santa Maria Visita Carceri*, a body for prison visiting which originally had a board of seven representatives, subsequently increased to 12, selected by the government from the city’s elite.⁸

Responsibility for the material and spiritual care of the destitute who packed Palermo’s Vicaria prison was given to the *Deputazione*, established in order to ‘support those prisoners without sustenance or medical assistance’.⁹ To this end, it was given permission to collect contributions: ‘to receive alms and money, related to the welfare of the imprisoned, to be deployed in their support, without any obligation to account for the disbursements made’.¹⁰ Financial self-sufficiency, freedom of action and administrative independence all allowed the *Deputazione* to rapidly become a real focus of power with a high degree of independence in its relationship with central government (Catalanotto 1990, 202).

With the foundation of the new Kingdom, legal status was given to the work of the *Deputazione di Santa Maria Visita Carceri* by the ministerial decree of 2 September 1827,

wherein the government approved its statute and thus subjected it to official regulation. In Sicily direct management of prisons thus remained in the hands of philanthropic bodies for an extended period: it was only in 1838, due to one of many centralising controls enacted by Ferdinand II (Tomeucci 1966), that the *Soprintendenza alle Grandi Prigioni* was established in Palermo too. This was a public body with powers over the whole province, based on the Neapolitan model, which took over the exercise of all those responsibilities that had for many years been delegated to the city's charitable organisations.

Penal reform in Sicily: three specific stages in the construction of a new concept of punishment

With its 197 prisons, Sicily offered particular opportunities as a penological testing ground.¹¹ As in the rest of the Kingdom, the formulation of a new concept of punishment, with the prison institution at its heart, started here a little earlier than in other parts of the Italian peninsula (Canosa and Colonnello 1984, 47–90; Capelli 1988, 17–106), and was taken forward in distinct and entirely separate phases. Three particular developmental stages can be identified; their pace varied and they were somewhat disconnected, but essentially they were all moving towards recognition of the central role to be played by the total institution of prison in the socio-political context of the era.

The first stage, during which the underlying structure of the whole system took shape, coincided with the reign of Ferdinand I. During this period administration of the judicial system was reorganised by the 'Legge Organica dell'Ordine Giudiciario' in 1817. This was followed by Royal Decree n. 1046, with the 'Regulations and orders relating to the prison service' appended, which amply demonstrated the desire that had already grown within the Bourbon dynasty, ahead of other rulers in Italy, to have a suitable prison regime (Tessitore 2002, 87–91). In 1819 there was legislation for a new penal code, based on the criteria of 'proportion' and 'precision' (Liberatore 1814, 15) and distinguished by the formal recognition of imprisonment as the main vehicle for atonement. The royal proclamation of 9 April 1823 then took the first, albeit hesitant, step in state intervention to counter the degrading living conditions of prisoners, ordering 'the distribution to abjectly poor prisoners of clothing and victuals in addition to the basic bread'.¹²

During the second stage, Francis I issued the first decrees aimed at sketching out the features of prison organisation. These initiatives were intermittent and unsystematic, responding to the pressing urgencies of the moment. They included the decree of 15 July 1826 (Ventimiglia 1839, vol. 2, 366), necessitated by the bitter clashes between the various gangs that populated the Kingdom's main prisons, and intended to regulate the use of beatings within these establishments. Particularly significant was the ministerial decree of 2 September 1827 approving the regulatory statute of the *Deputazione di Santa Maria Visita Carceri*, thus giving formal recognition by the Bourbon monarchy to this ancient philanthropic body, which had been assigned management of the prisons in Sicily's capital. Such recognition had been strongly desired and requested by this body's own members, and constituted the first step towards the construction of a strong power base within the prison sphere for the Sicilian nobility, disconnected and liberated from Neapolitan centralism even if formally subject to it.

The third stage, which started with Ferdinand II's accession to the throne in 1830, was the most important. It became a genuine period of reform for the entire constellation of prisons on the island, characterised by central planning and a clear desire to innovate. The new king took up afresh the initiative launched by his predecessors, but gave this a strong thrust forward. The reforms took place on three distinct fronts. On the legal front, the royal decree of 21 April 1845, n. 9388

(‘Istruzioni Ministeriali per la esecuzione de’ Sovrani Comandi relativi alla classificazione, alla occupazione, ed alla istruzione religiosa e morale de’ detenuti nelle prigioni’), exemplifies the logical and thorough approach which had work, health, classification and separation of prisoners, religious education and silence as the key elements of the new system developed for punishment. On the institutional front, which saw reorganisation of the bodies governing the administration and financial management of prisons, key measures taken included the abolition in 1830 of the *Giunta pel destino de’ condannati* (the board that determined where prisoners served their sentences), and the establishment in 1838 of the *Soprintendenza alle Grandi Prigioni*. Finally, on the architectural front, new central prisons were built in Siracusa, Girgenti and Trapani as well as in Palermo.¹³

Although the most important measures in Sicily were those taken between 1832 and 1845, within the time frame defined by the French historian *Michelle Perrot* as ‘l’ère de la prison triomphante’ (1975, 81), we can identify elements as early as the 1820s that help us to understand the disquiet regarding the ‘prison question’. On this ‘crossroads of the Mediterranean’, modernisation of the entire penal system had to be initiated on the legislative level: the absence of a uniform and centralised system for prison administration, which lay at the heart of the contrast already discussed between the management of Sicily’s places of punishment and those of the rest of the Kingdom, generated a wide debate involving representatives of the main institutions of the Kingdom, including both the local and central authorities. This real ‘workshop for prison legislation’ generated initiatives that were intended to give legal, institutional and management homogeneity to the confused and complex system. Two proposals, put forward in 1826 and 1830, are of particular interest, and are discussed in the sections that follow.

The *Progetto di decreto e di regolamento per lo servizio delle prigioni* of 1826

One early attempt at practical reform was a proposal dated 9 December 1826, a ‘plan for measures for and regulation of the prison service’,¹⁴ put forward jointly by the minister Carlo Averna, Duke of Gualtieri, Secretary of State for Sicilian Affairs, and the Duke of Sammartino, prefect of the Palermo province. This had two parts: the *Progetto di decreto* dealt with the institutional structure, while the *Progetto di regolamento* addressed the treatment prisoners should be given.

The *Progetto di decreto* pictured an institutional system in Sicily that would have differed from that of Naples in its configuration and component parts, but aimed at the organisational uniformity that characterised the Neapolitan experience. It would have determined that ‘the supervision of central, district and outlying prisons in the royal territories beyond the strait’ be entrusted, in the principal city of each of Sicily’s seven provinces, to a *Commissione Centrale*.¹⁵ Each of these provincial committees would have consisted of the provincial prefect, President of the High Court, Director of Public Prosecutions, and an official appointed by the king, put forward by the minister attached to Sicily’s Lieutenant General; in Palermo, the committee would have had an additional member, the Chief of Police, in view of its greater responsibilities.¹⁶

These committees would have had responsibility for ‘overseeing care of both buildings and inmates of the central, district and outlying prisons within their own province’, for distributing food, clothing and medicine to detainees who were ‘poor or incapable’, for indicating all the repairs needed to maintain their local prison premises, for preparing a list of employees that might need recruiting in central and district prisons, and, finally, for monitoring ‘the conduct of these employees’.¹⁷ Given the extensive nature of these committees’ responsibilities, subordinate *Commissioni Subalterne* would have been established. These subcommittees were to consist of ‘the mayor of the *comune* and the judge posted there’, and their function would have been to carry out

orders from the provincial committee and, more generally, to deal with ‘the supervision of the care of inmates and buildings of the district and outlying prisons’.¹⁸

The *Progetto di regolamento* was instead concerned with the treatment of prisoners, and in particular with issues relating to the provision of food and clothing for the poor. It stated that:

... every poor person detained in prison, except those there for civil matters, will each day be given a piece of brown bread, well baked, weighing 20 legal ounces, and a dish of food. The cost of maintaining poor detainees, dealt with in the previous article, will be met by the *comuni* from which they originate. It will, however, continue to be the case that the *comune* where the prison is located should cover the expenses necessary to maintain all the poor people detained therein, reclaiming the allowance owed them by the *comuni* of origin. The poverty of the detainee necessarily has costs. To address this, two certificates are necessary: one from the mayor of the individual’s *comune* of birth, and the other from the priest of the parish where they had customarily resided. These certificates will be issued at no cost. When the detainee has the means to subsist, these will be detailed in the aforementioned documents, whereby the *comune* can reclaim the amount paid out because of the detainee.¹⁹

This part of the plan thus even attempted to regulate the longstanding issue regarding which authority should take responsibility for maintaining the most needy prisoners. It was established that the cost of ‘genuinely poor’ criminal detainees would have to be met from the coffers of the *comune* in whose territory the prison was located, and that subsequently the amount paid out could be reclaimed from the prisoner’s *comune* of origin. This latter body would thus have been obliged to arrange restitution of the amount spent, and it was within its powers, in turn, to request reimbursement directly from the Kingdom’s Exchequer.

In actual fact, if this procedure had been implemented it would not have been an enormous change as it represented the reformulation of the contents of two separate circulars issued in 1825: one by the Minister for Justice (Dias 1856–59, vol. 4, 190–191), and the other by the Minister for the Interior.²⁰ In developing the *Progetto di regolamento* of 1826 there was, however, an attempt to systematise the procedures, in the hope of cutting through the tangle of regulations that had accumulated on this issue; the aim was to simplify the task of all those interpreting and working with the law while pursuing resolution of the many disputes of that time between Sicily’s different *comuni*.

The *Progetto di decreto e di regolamento per lo servizio delle prigioni* of 1826 was never implemented: the provincial *Commissioni* and their subcommittees were never established, treatment of the island’s prisoners continued to present marked inconsistencies,²¹ and the problem of the many disputes between the *comuni* persisted. Nevertheless, the compilation of this document provides strong evidence of the desire in Sicily, as elsewhere, to create regulatory instruments and ‘[d]eveloped social institutions [which] are, in effect, established frameworks for the satisfaction of needs, the resolution of disputes and the regulation of life in a particular social sphere’ (Garland 1990, 282), in this case prison.

The *Progetto di regolamento per la somministrazione degli alimenti e vesti ai detenuti poveri* of 1830

The failure of the 1826 plan discussed above did not dampen the enthusiasm of Sicilian reformers; in 1830, with encouragement from the Ministry of the Interior, a new document was developed.²² This plan, ‘for regulation of the provision of food and clothing to destitute prisoners’, differed from that of 1826 in that it did not deal with the institutional issue and exclusively addressed ‘meeting in a consistent manner, more fully but with sufficient frugality, the essential needs of those unfortunates who are detained in prison without any means of subsistence’.²³

The 1830 plan, infused with a pronounced humanitarian flavour,²⁴ reprised many of the provisions that had been in the preceding document, and thus had limited originality. In just eight points, this short document set out a detailed approach to the treatment which every Sicilian prison was to give to its inmates: it was declared that each needy prisoner would receive daily ‘one piece of brown bread, well baked, without the bran, weighing twenty legal ounces, and a dish of food, either of 7 legal ounces of broad beans, 6 ounces of kidney beans, or 6 ounces of lentils, or instead 4 legal ounces of pasta’, seasoned with ‘a sixth of an ounce of oil’ or ‘a third of an ounce of lard to give it more taste’.²⁵ Richer fare, by contrast, was reserved for infirm prisoners, in view of their extreme physical weakness.²⁶

Like that which had preceded it, the plan of 1830 declared that ‘the poverty of the detainee necessarily has costs’,²⁷ burdening the *comuni* with the related financial commitment. Furthermore, it included a fresh attempt at bringing order to the issue of the myriad disputes between Sicily’s different *comuni* over responsibility for the maintenance of individual prisoners in a state of need; once again, the procedures envisaged by the new regulations relied on a correspondence between documentation supplied both by the mayor and by the parish priest in the *comune* which the needy prisoner had said he came from. These cross-referenced checks would thus have provided a way of resolving the hundreds of denunciations that saw Sicily’s *comuni* in perpetual struggle with each other.

This latest of many attempts to provide definitive regularisation of these issues was nevertheless destined to fail. The 1830 plan did not in fact arrive at the implementation that had been hoped for; in Palermo in 1834, the *Deputazione di Santa Maria Visita Carceri* was still playing a central role in identifying the *comune* of origin of destitute prisoners. To resolve disputes over individual cases the prefecture, following local practice, would approach this charitable body, which in its turn launched a procedure for an internal enquiry conducted by the prison’s chief warden.²⁸

Conclusions

Events relating to Sicilian prisons show how for many years the whole island was administratively disconnected from Naples (Coppola 1998). Although the system was ruled by a single head, two bodies branched off separately from this: thus while in the capital, right from the establishment of the new Kingdom of the Two Sicilies, there was a quest for and experimentation with a legal and institutional ‘model’ for the management of penal institutions, in Sicily the process was much more complex and problematic. The lack of consistency and uniformity in the discipline of prison government was one of the distinctive features of the Sicilian experience that also allows us to compare it with that of Spain in the same period, brilliantly described by Francisco Tomás y Valiente (1978).

Nonetheless, there is no denying the interest with which scholars, intellectuals, philanthropists and government officials approached the issue, seeking time and again to offer effective solutions to practical problems. Evidence for this is the plans produced in 1826 and 1830, both documents being of a particularly well-informed and innovative nature. However, these plans for reforming the organisational legislation for prisons were never implemented, remaining ‘on paper’ principally because of the short-sightedness that characterised the local nobility; these élites used every means available to maintain the status quo that had allowed them to establish, maintain and consolidate over time a real centre of political and economic power.²⁹

Over the years, this situation led to a notable clash between classes, making ‘prison’ fertile ground for battles between the local aristocracy on the one hand, and the ascendant bourgeoisie

on the other (Giarrizzo 1983; Pezzino 1992, 95–176); the latter, who were struggling to acquire political power, fought fiercely to establish a structure of legal guarantees, to strengthen their own security (Rusche and Kirchheimer 1939, 73).

Furthermore, plans to modernise the legal and institutional apparatus of Sicily's loose network of prisons were nurtured within the much wider process of instituting an 'administrative monarchy',³⁰ which aimed to re-establish political and social stability in the Kingdom of the Two Sicilies. Set inside this bigger picture, the attempt to implement the prison reform plan in the end not only became a way of fulfilling the renewed determination shown by the king, but also now serves as a vital means of analysing and evaluating developments linked to the complex relationship between the government in Naples and Sicily's aristocratic elite – as a privileged and institutionalised entity typical of *ancien régime* society – during the nineteenth century. From this different perspective, those fresh approaches to the legal and institutional architecture of Sicily's prisons are a new and stimulating arena: we can observe a process, stimulated by the wish to promote administrative centralisation within the Kingdom, that did finally reach a conclusion within the more complex process of the construction of a state with aspirations to modernity.

We should remember that prior to 1838, in the arena of management of Palermo's penal institutions, administrative centralisation had moved forward by means of direct involvement of the city's aristocratic elites in local rule. However, the difficulties experienced by the Kingdom in the mid-1830s brought a radical change in the policies pursued by central government. If Ferdinand II, when he came to the throne:

... had not been against granting Sicily a degree of administrative autonomy, after the events of 1837, while an unshakeable opposition – hard to say whether more anti-Neapolitan or more anti-dynastic – persisted among his subjects over the strait of Messina, he repudiated any form of independence as perniciously toxic to the structure of his constitutionally unitary and centralised state. (Pontieri 1945, 289)

The uprising that broke out in Palermo in 1837, while triggered by the latest cholera epidemic that raged through the city, in fact had behind it the desire for autonomy that had always been harboured by the local nobility. These ambitions led to an open revolt against the Bourbons, which quickly spread across the surrounding province. To bolster the Kingdom in such a situation, the response that was devised aimed at increasing state involvement in the economy and society by strengthening centralising absolutism. The installation of the 'administrative monarchy', alongside the spasmodic pursuit of legislative uniformity across the whole Kingdom, represented considerable progress when compared with the efforts of the previous administration, which 'not being based on any principles, had in fact allowed inefficiency, prevarication, and abuse' (Di Ciommo 1988, 967) by the established bases of local aristocratic power.

A difficult and complex transitional phase thus began; with resistance and conflict apparent in the relationship between the centre and outlying areas, it was characterised by a crisis in representation of the Sicilian nobility. The central authorities were quick to respond with repressive measures. As the *Deputazione di Santa Maria Visita Carceri* was the stronghold of the island's aristocracy, this took the full force of the attack; it was aimed to break it up, and ultimately to destroy it. A decision was made to strip the *Deputazione* of all its most important functions, which was endorsed by the Royal Decree of 17 December 1838, and simultaneously the *Soprintendenza alle Grandi Prigioni*, a new state body responsible for managing penal institutions, was established in Palermo (Scirocco 1988, 374).

Despite this, it should be noted that the efforts made by the Kingdom's reformers were fated to founder on insurmountable obstacles: contemporary society was not yet ready, and the ruling

class ill-disposed towards this change, which therefore could not be implemented by the new laws and institutions. There had not been a change in mentality, the necessary precondition for any attempt at judicial reform, and there was a real distance between a political and institutional project that represented such a large break with the past and the actual social and cultural context within which it was to be realised. These factors together drove the reforms towards conspicuous failure: the gap between the world of legislation and regulation and the world of their effective application was fully exposed.

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Notes

1. It should be noted that the development of the ‘Panopticon’ model for prison surveillance had its origins in the ideas of Jeremy Bentham’s brother, Brigadier General Sir Samuel Bentham, in relation to the organisation of manufacturing (Rossi, De Rosa, and Carrieri 1854, 86–88).
2. Archivio di Stato di Palermo (hereinafter ASP), *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, I carico, b. 582/1837, Di Martino, *Intorno al progetto di un nuovo carcere in Palermo. Memoria dell’architetto dipartimentale della direzione generale di ponti e strade*.
3. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 582/1837, ministerial decree signed by Marchese Ugo delle Favare, Lieutenant General for Sicilian Affairs, 3 September 1824.
4. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 582/1837, ‘Relazione della Commissione incaricata dello esame dei progetti, che sono stati fatti su di un nuovo locale di Pubbliche Prigioni in Palermo, 18 Aug. 1825’.
5. Another important charitable body also operating in Naples was the *Confraternita dei Bianchi della Giustizia*, which assisted prisoners who faced execution (Pontieri 1972, 1–60; Prosperi 1982).
6. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 4239/1838. Letter dated 11 July 1838, signed by the Minister of State for Internal Affairs, Nicola Santangelo.
7. *Ibid.*
8. According to Antonio Cutrera (1934, 90) the number of representatives was increased from seven to 12 in 1743. A different date, however, is given in the historical introduction to the ‘Statuti di Regolamento per la Deputazione di Santa Maria di Visita Carceri’: ‘On 17 November 1645, by Viceroy Ferdinando Zunica acting on the request of the seven representatives, their number was increased to twelve so that they might better fulfil their responsibilities, which had been divided up across the week.’ ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 2175/1838.
9. ASP, *Soprintendenza alle Grandi Prigioni*, b. 59/1840, fasc. 34. ‘Progetto di Stato Discusso delle Deputazione di Santa Maria di Visita Carceri’.
10. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 2175/1838. Historical introduction to the ‘Statuti di Regolamento per la Deputazione di Santa Maria Visita Carceri’.
11. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, III carico, bb. 4138, 4139, 4140, anni 1862/63.
12. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 120/1824.
13. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, bb. 273/1830, 427/1834, 644/1838.
14. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 3532/1834. ‘Progetto di Decreto e di Regolamento per lo servizio delle prigioni’ of 1826.
15. *Ibid.*, article 1.
16. *Ibid.*, article 2.
17. *Ibid.*, article 3.
18. *Ibid.*, article 4.
19. *Ibid.*, articles 1, 2 and 3.
20. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 3532/1834. Circular issued by the Minister for the Interior to the governors of Sicily’s provinces, 29 August 1825.

21. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 3532/1834. Letter dated December 1830.
22. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 3532/1834. ‘Progetto di Regolamento per la somministrazione degli alimenti e vesti ai detenuti poveri’ of 1830.
23. *Ibid.*, article 1.
24. The arrangements within the 1830 project, similarly to those of the 1826 project, broke with previous tradition in their formal acceptance of the position of the English reformer Henry Dagge, for whom ‘the good of society is best promoted by a regard for individuals’. On this, see Hunt (2007, 70–113).
25. ASP, *Ministero e Segreteria di Stato presso il Luogotenente Generale – Interno*, b. 3532/1834. ‘Progetto di Regolamento per la somministrazione degli alimenti e vesti ai detenuti poveri’ of 1830, article 1.
26. *Ibid.*, article 7.
27. *Ibid.*, article 4.
28. ASP, *Soprintendenza Grandi Prigioni*, b. 18/1834–1837. Note of 27 March 1834.
29. The placatory allocation of senior positions in the administration to members of the aristocracy had some unfortunate consequences: in the attempted mediation between bourgeois and aristocratic interests, the efficiency of government in fact suffered. See Meriggi (1983, 201–247).
30. For a definition of ‘administrative monarchy’, see Ghisalberti (1963, 147–157); for reception of the French model within the Kingdom, and for the independent developments of the Restoration, see Feola (1984, 49–81, 85–121, 141–154); for an assessment of the political and administrative arrangements of the Kingdom of the Two Sicilies, see Spagnoletti (1997); and for a developmental history of the relationship between institutions and the territory, see Meriggi (2011).

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