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Obedience, hierarchy and fragmentation: critical aspects of the organisation of prison staff

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ABSTRACT

This paper aims to critically contextualise, within the prison system, the key issues inherent in the relationship between orders issued, the chain of command, legislation at all levels, administrative circulars, and obedience, adopting a multidisciplinary perspective. This research is based on two insights: 1) the question of how the chain of command operates in prisons also requires consideration of the concept of punishment held by the various staff members within the system; 2) prisons are such closed and opaque places that, in order to understand their disciplinary mechanisms, a direct account from those involved in the prison organisation is required. The following analysis is based on the responses to a series of questionnaires administered to the main actors in the decision-making processes within prisons, with priority given to members of the prison police force.

KEYWORDS

Prison; Authority; Security; Rehabilitation; Overcrowding.

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1. Introduction

Prisons emerged and developed as complex organisations, within which the number of stakeholders involved in decision-making processes has grown over time. Given the function it is intended to fulfil, this organisational structure takes on unique characteristics that cannot be compared to other administrative bodies.

The prison administration staff is, in fact, vast and diverse. Each institution is headed by a manager, within a classic hierarchical structure, whose tasks include, amongst many others, coordinating the prison police staff. This paper aims to critically contextualise, within the prison setting, the major issues concerning the relationship between orders issued, the chain of command, laws at all levels, administrative circulars and obedience, adopting a multidisciplinary perspective. This research is based on a twofold realisation: 1) the issue of how the chain of command functions in prison necessitates a l examination of the concept of punishment held by the various practitioners within the system; 2) the prison is a place so closed and opaque that, in order to understand its

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disciplinary mechanisms, a first-hand account from the key figures within the prison organisation is required. The following analysis examines the responses to a series of questionnaires administered to the main decision-makers within prisons, with a focus on members of the Prison Police Force.

The overall aim of the interviews was to question staff about the role they play within the institution where they work and, more generally, within the prison system, and how hierarchical relationships actually develop in day-to-day life. Particular attention was paid to the concepts of legitimate and illegitimate order, authority, and what, within the current organisational structure, renders the adopted model problematic. This was followed by an examination of whether or not there is a gap between statutory provisions and the practices applied within the institutions.

Before analysing the responses provided, we will briefly outline the main factors that have shaped the current organisational model and the prison system over time, in order to provide an understanding of the context through a critical examination of the key developments that have led to the current professional structure, focusing in particular on the main actors and prison staff.

It is essential to reiterate the need for ongoing research into the prison system, its organisation and the relational and conflictual dynamics among its staff, at a critical juncture such as the present, in which prisoners often remain 'Senza respiro'[2] .

2 The historical context and the complexity of *the prison system*

2.1 The origins of the prison system

The current organisational structure of prisons in Italy is the result of a constant evolution, which, since the unification of Italy, has seen a succession of reforms aimed at defining in concrete terms the methods of serving sentences. It was in the early 19th century that the prison issue underwent an initial intense period of debate, reflection and transformation, not only in Italy but across the international landscape. During those years, the need arose to question the models of imprisonment and the enforcement of sentences that had hitherto characterised the international landscape. This need was driven not only by the Italian debate on the subject and by international academic conferences [3] , but also by study missions undertaken to examine the models of serving sentences that had been adopted. Much like Alexis de Tocqueville's journey to America to study the characteristics

[2] Title of the Antigone Association's 21st Report on Prison Conditions in Italy, 2025.

[3] International prison congresses at which prison reform was discussed: St Petersburg 1820, London 1872, Stockholm 1878, Rome 1885, Paris 1895, Brussels 1900.

of prisons, which he recounted in two volumes published in 1835 and 1840 respectively, entitled *Démocratie en Amérique*. A need to reform the system had become essential, not only because imprisonment was no longer a secondary form of punishment compared to others, but above all to take on board the calls for the humanisation of punishment from the scholars and intellectuals of the time.

2.2 The prison system and organisation in post-unification Italy

In Italy, prior to the approval of the 1875 Prison Regulations, various prison regulations and rules governing the organisation of staff were introduced over the years, establishing a pyramidal and top-down organisational model. First and foremost, one can observe a 'substantial continuity of legislative approaches and operational practices'[4] in the history of the prison system dating back to the unification of Italy, which can be summarised into three main themes identified by the jurist and former judge of the Constitutional Court, Guido Neppi Modona, to whom we owe the historical analysis of punishment in Italy. The first is the impermeability of the prison vis-à-vis free society, placing inmates in a state of total isolation and marginalisation, going beyond the security requirements necessary to accompany a sentence restricting liberty. The second is the climate of violence within institutions and the perpetual state of conflict between guards and inmates, a consequence of the rigid exercise of disciplinary power, the obligations and related sanctions imposed on prison staff. Indeed, from the early years of Italian unification, prison reports have been rife with episodes of physical violence, in which guards and inmates have alternately been the victims[5] . This critical atmosphere was further fuelled by the provision for corporal punishment such as caning and the obligation of silence imposed on prisoners, which effectively prevented any non-confrontational relationship between them. The third thread of continuity lies in the rigidly centralised and top-down bureaucratic structure of the prison administration, already defined by the regulatory framework of 1891.

2.3 Prisons during the Fascist era

[4] G. NEPPI MODONA, entry on *Ordinamento penitenziario*, in "Digesto delle Discipline Penalistiche", vol. IX, UTET, Turin 1995.

[5] Incidents of violence are described in the Official Bulletin of the Directorate-General of Prisons, particularly for the years 1871 to 1874. Contributing to this climate of conflict were the harsh punishments meted out to prisoners, among which the punishment of flogging in the penal baths stands out for its inhumanity.

A key step in the reorganisation of the prison system was taken with Royal Decree No. 787 of 18 June 1931, namely the Regulations for Correctional and Penitentiary Institutions, which came into force under the Fascist regime. The rigid hierarchical relationship between staff at various levels of the prison administration remained as in the past, but, albeit to a limited extent, a slow process of decentralisation began, extending not only to organisational management but also to the treatment of inmates within the institutions; for example, all staff were granted the opportunity, within the limits of their role, to participate in the treatment of prisoners. This aspect clashes in practice with the ongoing problem of staff training, the importance of which was also highlighted by the Minister of Justice, Alfredo Rocco, who stated that it is 'the most important problem of the prison administration, because the most comprehensive and enlightened definition of staff duties remains of no practical value unless it is ensured that the selection of staff and the treatment of prisoners guarantee that those duties are assigned to people capable of carrying them out'[6] . The need for adequate training of staff also became a topic of international debate, as at the Prague Congress in 1930. In particular, there was a felt need to improve not only the training of directors, for whom 'the specialisation of institutions must also be a consequence of the specialisation of directors'[7] but above all that of prison staff, for whose recruitment, even after the new Regulations came into force, only a fifth-grade education and a six-month course of military and vocational training were required. Such a training model was unable to prevent the officer from bringing with him 'the atavistic ignorance of his background, exacerbated by the crudeness of an exclusively military training devoid even of the most rudimentary notions of psychology and criminology'[8] . This aspect was highlighted by Tito Cicinelli, director of prisons in Rome in 1931, who, believing in the possibility of the convict's rehabilitation—despite the fact that only 0.50% of those entering prison in 1922 were not repeat offenders—identified among the causes making the director's task arduous 'the uncertainty of the tools' with which he worked, namely work for prisoners and prison staff. According to Cicinelli, prison staff in particular lacked the skills to fulfil the 'educational role' for which they were responsible, due to unsuitable entry requirements [9] . Another aspect in which continuity with the previous regulations can be seen is the central role of the director, who acquired greater powers and was assisted during the initial

[6] A. ROCCO, *Relazione a S.M. il Re del Ministro guardasigilli per l'applicazione del testo definitivo del regolamento per gli istituti di prevenzione e di pena*, in "Rivista di diritto penitenziario", vol. 1, 1931, pp. 695–696.

[7] E. PERUCATTI*, Perché la pena dell'ergastolo deve essere attenuata. Documenti - Polemiche - Esperienze. Nuovi orizzonti dell'esecuzione penale*, Ed. Editoriale Scientifica, "Diritto penitenziario e costituzione series", Naples, 2021, p. 444.

[8] E. FASSONE, *Gli agenti di custodia*, in S. FORTUNA (ed.), *Operatori penitenziari e legge di riforma. I protagonisti dell'ideologia penitenziaria*, Franco Angeli, Milan 1985.

[9] T. CICINELLI, *Strumenti di redenzione*, in "Rivista di diritto penitenziario", vol. I, 1931, pp. 91 ff.

phase of sentence enforcement—namely, observation—by the doctor and the chaplain. Furthermore, the director remained the undisputed head of the institution and the authority responsible for maintaining discipline, since 'only the director's authority, founded on dignity, energy, humanity and justice, can bring peace of mind'[10] . As for the specific discipline of the Corps of Prison Officers, this was set out in the new Regulations for the Corps of Prison Officers of Correctional and Penal Institutions, issued by Royal Decree No. 2584 of 30 December 1937. The regulations mirrored the approach of their predecessor, through a rigid system of punishments—often disproportionate to the offence—and rewards that frequently exacerbated relations with the institution's director, who held disciplinary authority and the power to grant leave. Furthermore, the legislature did not resolve the conflictual relationship between staff and prisoners, but rather reinforced it by increasing the distance between them and the climate of violence, thanks in part to Article 16 of the new Code of Criminal Procedure, which guaranteed impunity to public security officers 'for acts committed in the course of duty and relating to the use of weapons or other means of physical coercion'. Rules of conduct towards superiors remained in force, as did the ban on collective complaints and the prohibition on serving in prisons located in one's own province of origin or that of one's wife.

For details on prison conditions under the Fascist regime, see the reflections of former political prisoners of the Fascist regime collected in the special issue of the magazine *Il Ponte*[11] in March 1949

[10] Report by Minister Rocco, para. XXIV.

[11] P. CALAMANDREI, *Bisogna aver visto*, in "Il Ponte. Rivista di politica e letteratura", vol. V, no. 3, 1949. The texts in the journal have been collected and applied to our current prison context by P. GONNELLA AND D. IPPOLITO, *Bisogna aver visto. Il carcere nella riflessione degli antifascisti*, Edizioni dell'Asino, Rome, 2019. The texts collected in the book are the testimonies of those who experienced prison during the twenty years of Fascist rule: Vittorio Foa, Altiero Spinelli, Gaetano Salvemini, Ernesto Rossi, Carlo Levi, Ferruccio Parri and other prominent figures, united in their unanimous call for the reform of the prison system. But to do so and to understand its oppressive nature, 'one must have seen it'. From the very editorial written by Calamandrei, one can discern the problems that continued to plague the prison system, such as overcrowding and the dilapidated conditions of many institutions, or in the testimonies of Vinciguerra and Lucio Lombardo Radice, who described the climate of violence that characterised the conduct of prison officers—an element considered structural to the prison institution—and asserted the need for a reform that begins precisely with the staff, not just the custodial personnel. Riccardo Bauer developed an analysis of the defining characteristics of the prison institution: its bureaucratic organisation; its immanent and closed purpose, namely simple and brutal custody, ensured through the extreme curtailment of the prisoner's autonomy, which leads to a substantial degradation of the individual to the status of an object. In reconstructing the treatment regime for common prisoners rather than political prisoners, Bauer described appalling sanitary conditions and an inefficient healthcare service.

entitled *Prisons: Experiences and Documents*, considered "the most comprehensive and complete documentation of prison life ever produced by the Italian political class"[12] .

2.4 The constitutional turning point

In the aftermath of the liberation, Italian prisons found themselves in a serious state of physical disrepair, caused by bombing, the devastation of the war, and a substantial increase in the prison population: in remand centres, the number of inmates in 1945 stood at 63,634, almost double that of 1935. Under these conditions, in 1945 and 1946, some of the most notorious prison riots in Italian history took place, often suppressed violently, as was the case at San Vittore remand centre in 1946, which resulted in eight deaths and numerous injuries. Faced with the critical conditions in the institutions, Minister Togliatti championed a drive for 'normalisation'[13] through the suppression of the riots and the imposition of strict internal prison discipline. The Minister of Justice issued two measures destined to shape the future of the prison system. The first was a circular concerning prison discipline which, with the aim of putting an end to the numerous riots, imposed measures based on order and discipline. The second measure was the Lieutenant Governor's Decree-Law No. 508 of 21 August 1945, which established the incorporation of the Corps of Prison Officers into the State Armed Forces, specifically those in public security service, thereby enacting a further tightening of discipline for the officers and subjecting them to the strictest military jurisdiction, in accordance with the provisions of the Military Penal Code for peacetime and wartime. The militarisation of the corps was thus decreed, initiating a process of inventing tradition, blending religious and military elements to forge a new esprit de corps: they began to wear insignia, adopted the motto *"Vigilando Redimere*", designated Saint Basilides as their patron saint, and established a day dedicated to the corps' feast. The period 1946–1948 was characterised by a radical change in society and in humanity's view of itself; the Second World War showed us the extent to which the complete destruction of human dignity can go. The result of this change was the adoption of the Republican Constitution. By virtue of the principle of the hierarchy of sources that characterises the Italian legal system, legislation in the prison sector had therefore to be guided by the principles of compatibility and harmonisation with the fundamental provisions enshrined in the Constitution, and first and foremost, those defining the absolute importance of the fundamental human rights and s contained in Articles 1, 2 and 3, as well as the provisions concerning the application and enforcement of criminal sanctions set out in Articles

[12] G. NEPPI MODONA, *Carcere e società civile*, in Various Authors, *Storia d'Italia. Vol. V: I documenti*, Einaudi, Turin 1973, p. 1905 ff.

[13] C. G. DE VITO, *Camosci e Girachiavi. Storia del carcere in Italia 1943-2007*, Laterza, Rome-Bari, 2009.

13, 24, 25 and 27 of the Constitution. The enforcement of criminal penalties and the deprivation of personal liberty thus undergo a substantial change: pursuant to Article 27(3), "penalties may not consist of treatment contrary to the sense of humanity and must be aimed at the re-education of the convicted person", and therefore "respect for the personality and dignity of the prisoner' must be ensured"[14].

The slow progress of reform has been marked by decades of legislative stagnation, during which the fascist regulations governing penal institutions stood in stark contrast to the Constitution, which nevertheless introduced a new paradigm for the organisation of the prison system. Despite the various bills that followed one another from the third to the fifth legislature, many of which never even reached parliamentary scrutiny, the turning point came in the late 1960s, with the start of a new wave of protests and mobilisations by the prison population, marked by a strong political dimension. This was influenced not only by the student protests of 1968 and the workers' struggles of 1969, but also by the mature scientific and literary discourse on 'total institutions', in which the prison occupies a prominent position of high symbolic significance[15] . The prison issue entered the public debate partly through artistic works: these were the years of the films *The Investigation Is Closed, One Flew Over the Cuckoo's Nest and Escape from Alcatraz*, years in which De André sang of a prisoner who committed suicide in *La Ballata of the Michè* and sided with the prisoners' uprisings *in In My Hour of Freedom*. The prisoners' protest movement in those years took on an international character: more than a thousand demonstrations, mainly peaceful, highlighting the deteriorating conditions of prisoners. Prison staff also joined the protests; indeed, in 1969 there was the so-called 'directors' revolt', in which prison directors, having formed the Association of Senior Prison Administration Officials, protested against their exclusion from the management and declared that "We attribute the root of all the ills of prison management staff and their administration to the authoritarian and paternalistic system prevailing in our sector"[16].

[14] M. RUOTOLO, *Dignità e carcere*, (Second edition), Editoriale Scientifica Universitaria, Naples, 2014.

[15] Reflections on the prison as a total institution and the investigation into the origins of prisons through a historical-sociological lens are set out in these two seminal works: E.B. GOFFMAN, *Asylums:. Essays on the Social Situations of Mental Patients and Other Inmates*, Routledge, London and New York 2017 (1961); M. FOUCAULT, *Discipline and Punish: The Birth of the Prison,* Vintage Books, New York 1995 (1975).

[16] V. MAROLDA, *Per una amministrazione penitenziaria moderna ed efficiente*, in "La Voce Penitenziaria", VII, July–August 1969, 7–8, pp. 157–162. The article reports the opening address of the 5th Congress of the Association of Senior Prison Administration Officials, held in Rome from 18 to 24 June 1969.

2.5 The years of the Constitution and the 1975 reform

The reform came with Law No. 354 of 1975, *Provisions on the prison system and the enforcement of measures depriving or restricting liberty*, followed by the relevant implementing regulations set out in Presidential Decree No. 431 of 29 April 1976. Among the key elements of the process of transformation of the prison system were: the regulation of the prison system by law rather than by regulations; the alignment of the regulations with the Constitution; the introduction of the principle of individualised treatment; the recognition of prisoners' rights; and the introduction of alternatives to imprisonment. As regards prison staff, however, the reform's innovative capacity did not alter the centralised and bureaucratic structure of the prison organisation, to which the second title is devoted. Compared to previous regulations, the new Prison System has a different structure: the detailed description of staff working within institutions has been removed, with the exception of the new roles of social worker and educator, but their functions are described within other provisions.

2.6 The Prison Police Force is established

The first signs of administrative renewal, years after the reform, would only emerge with Law No. 395 of 15 December 1990, under which the administration took on a new structure, as also highlighted by Nicolò Amato, Director-General from 1983 to 1993, in a message addressed to all staff following the new law: 'It is a decisive date because, in a way, it divides the time and history of our administration in two. There is the history before the reform and after. We could say that there is the prehistory and the history of the Prison Administration'[17]. The 1990 law, in addition to establishing the Corps of Prison Police Officers, replaced the previous General Directorate for Preventive and Penal Institutions with the Department of Prison Administration (DAP) and elevated the Central Offices to the rank of general management, to which it was established that access was no longer restricted to ordinary magistrates but was also open to managers from within the Administration, with the exception of the role of Head of the DAP.

The general organisational structure emerging from these measures retains the director as the principal figure in local administration, appointed from among the senior officials of the prison

[17] N. AMATO, *Messaggio a tutto il personale*, Introduction to Ministerial Circular 3337-5787 of 7 July 1992, "Istituti penitenziari e centri di servizio sociale: costituzione e funzionamento delle aree".

administration for district prisons, prisons, detention centres, agricultural colonies and workhouses, whilst for care and custody centres and judicial psychiatric hospitals, the director is appointed from among the healthcare staff of the prison administration. In summary, the director is responsible for a wide range of functions: from the management of the institution and its staff, including prison police officers, to the coordination of the supervision and treatment of prisoners; from managing relations with the supervisory judiciary to essential links with the outside world; and finally, activities as a delegated official. However, compared to the previous legislation, whilst the director remains the head of the institution and, as such, represents it externally, within the institutions they assume greater responsibilities for coordinating and harmonising the various operational areas, with powers of supervision and intervention in the event of malfunctions, rather than acting as a direct operator. First and foremost, as highlighted above, the reform alters the director's remit: from being a 'passive figure', they become a "catalyst for interests, interventions, actions and a wider range of richer and more meaningful activities"[18] . However, the relationship between custodial and treatment requirements underpinning his decisions has, in recent years, encountered a confused political direction, placing directors "in situations of internal conflict and difficulty in making operational choices", as highlighted in the discussion at the 8th National Congress of Prison Directors[19] . The conflict with those responsible for security, namely the Prison Police, reaches a greater and more pronounced level of opposition in maximum-security institutions. To carry out his duties, the director was supported by new bodies and new professional staff, structured and organised in detail within the institutions thanks to Ministerial Circular 3337-5787 of 7 July 1992 'Prison institutions and social service centres: establishment and operation of areas'. The circular is a cornerstone in defining the structure of prisons and their respective roles, creating operational and functional areas, and marking a significant turning point in terms of organisational culture and the renewal of the Prison Administration, whilst also affirming the absolute importance of unity within the multidisciplinary nature of administrative action and the empowerment of staff through area managers. The areas established for the institutions are: the secretariat area, the educational or treatment area, the health area, the security and order area, and the administrative and accounting area. The 196 pages comprising the body of the circular describe in detail the role and duties of all personnel working within the institutions, who, compared to the structure outlined in the 1931 Regulations, have

[18] I. STURNIOLO, *Ruolo, compiti, profilo del direttore penitenziario*, in "Rassegna penitenziaria e criminologica", nos. 2–3, 1983, p. 594.

[19] F. S. FORTUNA (ed.), *Operatori penitenziari e legge di riforma. I protagonisti dell'ideologia penitenziaria*, Franco Angeli Editore, Milan 1985, pp. 95 ff.

increased in number, are more specialised and geared towards the rehabilitative purpose of the sentence, thus emphasising the importance of the first part of the rehabilitation/security duality.

Security within institutions is ensured by the newly formed Prison Police Corps, established by Law No. 395 of 15 December 1990. At the same time, the role of prison wardens[20] was abolished and the relevant staff were absorbed into the Prison Police Corps. The Regulations of the Prison Police Force were issued with three key objectives, to bring the rules into line with the new approach to punishment: demilitarisation, professionalism and unionisation. Indeed, pursuant to Article 1, the demilitarisation of prison staff was implemented, transforming them into a civilian force, under the authority of the Ministry of Justice and forming part of the law enforcement agencies. To enhance professionalism, changes were made to the recruitment procedure, requiring a higher educational standard of officers, who must hold a specific qualification and pass a competitive examination to join the Corps. The trade unionisation process then ensured that, for the category of prison officers too, there were trade unions responsible for safeguarding the Corps' employment rights.

2.7 The wave of incarceration in the 2000s

The 2000s began with a fundamental amendment that revived the principles enshrined in the 1975 reform but which had remained unimplemented: the new Executive Regulations of the Prison System were approved, issued by Presidential Decree No. 230 of 30 June 2000, which repealed the previous implementing regulations of 1976. In addition to providing greater detail on life in prison with the aim of ensuring a broader guarantee of fundamental rights, the regulations introduce a new internal group within institutions, the observation team, comprising the persons specified in Article 29, paragraph 2.

However, the prison population has not decreased in recent years: among the causes is a series of legislative measures relating to drug addiction and immigration, the foundations for which were laid in 1990, respectively with the Jervolino-Vassalli Act (Presidential Decree No. 309 of 9 October 1990) and the Martelli Act (Act No. 39 of 28 February 1990). Subsequent immigration laws, which were heavily prison-centric in nature, were: the Turco-Napolitano Law of 1998 (Law No. 40 of 6 March 1998), and the Bossi-Fini Law of 2002 (Law No. 189 of 30 July 2002). In line with the criminal

[20] For a historical analysis of the disparity between male and female prison staff, the silent handover of responsibility for women's prisons from nuns to female wardens and then to prison officers, and the slow evolution of the professionalism of prison officers, see L. CULLA, M. DI RIENZO, *Esperienze di formazione delle vigilatrici penitenziarie, Considerazioni in margine al I e II corso di aggiornamento per vigilatrici penitenziarie*, in "Rassegna penitenziaria e criminologica", issues 1–3, 1988, pp. 173–194.

policy of previous years, the so-called ex-Cirielli law (Law No. 251 of 5 December 2005) was enacted: the matters covered by the legislation are varied, including recidivism, the statute of limitations, as well as certain aspects of the prison system, namely benefits and alternative measures. With this measure, the legislature demonstrated an approach aimed at denying reward schemes for repeat offenders, who in practice are those committing street crimes, particularly immigrants and drug addicts.

Furthermore, approximately 10 years after Legislative Decree No. 230/1999, the complete transfer of functions, human resources, employment relationships, as well as equipment and capital assets relating to prison healthcare, to the National Health Service was effected through Law No. 244 of 24 December 2007 and the Prime Ministerial Decree of 1 April 2008.

2.8 From the Torreggiani ruling of 2013 to the new offence of prison riot

In the two-year period 2013–2014, the Italian Government attempted to tackle the problem of overcrowding, in the wake of the emergency that had emerged in previous years. In 2010, the overcrowding rate reached one of its historic peaks: the prison population stood at 67,961 inmates, a full 22,839 more than the regulatory capacity, with an overcrowding rate of 151%, or 151 inmates per 100 places.

After declaring a national state of emergency for prisons[21], Italy was found in violation by the European Court of Human Rights in the Torreggiani and Others judgment[22] on 8 January 2013. The Court, adopting a pilot judgment, found a repeated and systematic violation of the Convention, resulting from constant overcrowding and the lack of judicial effectiveness of the remedies provided for under prison legislation, placing the State on notice and setting a deadline of one year within which to implement a structural reform capable of redesigning prison spaces, in accordance with constitutional law and the obligations under the Convention. The ultimate aim would have been to ensure a humane, rehabilitative, and resocialising prison system. For this reason, and fearing a heavy sentence from the European courts, the Government acted on two fronts: it adopted measures aimed at reducing the prison population, and it took action on both judicial and non-judicial safeguards.

[21] Decree of the President of the Council of Ministers of 13 January 2010 declaring a state of emergency due to excessive overcrowding in prisons throughout the country; Decree of the President of the Council of Ministers of 23 December 2011, by which the aforementioned state of emergency was, most recently, extended until 31 December 2012.

[22] European Court of Human Rights, Section II, Case of Torreggiani and Others v. Italy, 8 January 2013 (Applications Nos. 43517/09, 46882/09, 55400/09, 57875/09, 61535/09, 35315/10 and 37818/10). Judgment upheld by the Grand Chamber by Order No. 161 (2013) of 28 May 2013.

Alongside the general complaint mechanism, the judicial complaint[23] under Article 35 bis of the Prison Act was introduced, as well as the compensatory remedy under Article 35 ter of the Prison Act[24] following a breach of Article 3 of the European Convention on Human Rights. The role of the National Guarantor for the Rights of Persons Detained or Deprived of Personal Liberty[25] was established, with responsibilities for inspection, monitoring and the protection of rights. The 2013 decree included the National Guarantor among the new recipients of the general complaint. The Ombudsman is an authority appointed on the initial recommendation of the Ministry of Justice, whose regulations on the structure and composition of the Office are set out in Ministerial Decree No. 36 of 11 March 2015. The Ombudsman oversees all forms of deprivation of liberty to ensure they are carried out in accordance with constitutional provisions, international human rights conventions ratified by Italy, and laws and regulations. To this end, the Ombudsman is empowered to visit, without authorisation or prior notice, any facility where liberty is deprived, to request information and documents from the authorities, and, in the event of an established breach of regulations or well-founded general complaints, to make recommendations and refer matters to the judicial authorities.

In 2017, the Government launched an extensive consultation process with all prison *stakeholders* with a view to approving a major reform. The General Assembly on the Enforcement of Sentences was convened[26] and, following a long and intense legislative process[27] , the Government adopted Legislative Decrees Nos. 121, 123, and 124 of 2 October 2018, which implemented the enabling act of 23 June 2017 No. 103. The decrees amended various aspects of the legal system

[23] Decree-Law No. 146 of 2013, converted into Law No. 10 of 21 February 2014.

[24] Decree-Law No. 92 of 26 June 2014, converted into Law No. 117 of 2014.

[25] Article 7 of Decree-Law No. 146 of 23 December 2013.

[26] The bill (17th Legislature, Chamber of Deputies Bill No. 2798 and Senate Bill No. 2067) bears the following wording in its title: "Amendments… to the prison system to ensure the rehabilitative effectiveness of sentences". See, in particular, Article 29 (which provides for the 'Delegation to the Government for the reform of criminal procedure and the prison system') and Article 31 (which sets out the guiding principles and criteria for the adoption of delegated legislative decrees). The Ministerial Decree of 8 May 2015, which established the "Committee of Experts for the conduct of public consultation on the enforcement of sentences", known as the "States General on the Enforcement of Sentences", and the subsequent Ministerial Decree of 9 June 2015, which provided for the expansion of the aforementioned Committee.

[27] Four years passed since the bill was tabled in the Chamber of Deputies. During this period, the Government launched a major initiative, the General Assembly on the Enforcement of Sentences, comprising experts, prison staff, judicial officials and representatives from central and local government, as well as the academic, cultural and voluntary sectors. This was a collaborative effort to draw up legislative proposals and guidelines for the subsequent reform. For a detailed analysis of the decrees and shortcomings in relation to the ambitious project of a general reform, see P. GONNELLA (ed.), *La riforma dell'ordinamento penitenziario,* Giappichelli, Turin, 2019, and M. RUOTOLO, S. TALINI, *Dopo la riforma: i diritti dei detenuti nel sistema costituzionale,* Editoriale Scientifica, Naples, 2019.

without, however, having the courage to modernise and innovate prison practice and without addressing organisational imbalances or professional roles.

From 2018 onwards, a new wave of security measures began, despite the tragic interlude of the Covid pandemic. Over the last few years, a repressive criminal policy has been pursued through Decree-Laws[28] , which have exponentially increased the range of prosecutable offences and had a direct impact on the size of the prison population. Finally, on 13 April 2025, the so-called Security Decree[29] was adopted, which, in addition to introducing numerous offences and aggravating circumstances, has had a direct impact on the organisational framework by introducing the new offence of prison riot. Due to numerous critical issues[30] , including the criminalisation of a prisoner's passive conduct, this offence risks exacerbating the already difficult and complex relationship between officers and inmates, creating scope for discretion and potential arbitrariness in identifying prosecutable cases.

2.9 The most recent administrative measures affecting the prison system

The measures that have had the greatest impact on the organisation of prisons, and in particular on the organisational arrangements of the prison police, were the circulars issued by the Department of Prison Administration on 13 July 2013 (GDAP – 0251644 – 2013) and 23 October 2015 (3663/6113), which introduced the dynamic surveillance system. In recent years, however, the 2022 Circular on the medium-security circuit and the 2025 Circular on the high-security circuit have had a significant impact on the internal organisation of prisons, effectively contradicting the previous circulars. With a view to greater restriction, these have drastically reduced the time prisoners are allowed to spend outside their sleeping quarters.

In conclusion, and briefly, there are three main figures who make up the current organisational structure of prisons today: the director, the legal and educational officer, and the Penitentiary Police's Corps. At the head of every prison's organisation is the director, an atypical and complex role, difficult to compare with other public management positions. The role of the director – with female

[28] By way of example, these include the 'Cutro Decree', converted with amendments by Law No. 50 of 5 May 2023, and the Caivano Decree, converted by Law No. 159 of 13 November 2023.

[29] Converted into Law No. 80 of 9 June 2025.

[30] For a general and critical examination of the Decree, see P. PRENCIPE, *Il decreto sicurezza e il delitto (illegittimo) di rivolta penitenziaria*, or for a specific analysis of the offence of riot, J. PATRONE, *L'illegittimità del reato di rivolta penitenziaria*, both texts are published in "XI Rapporto sulle condizioni di detenzione" compiled by the Antigone Association, 2025.

directors being in a clear minority – is fundamental within a prison. They are, in fact, the driving force behind the resocialisation of prisoners, responsible for coordinating all areas of the institution, for the administrative management of the facility and its staff, and for the activities carried out within the institution, including all those involving prisoners; they are also the authorised spender and the employer. Ultimately, practically everything depends on the director, and when the director is absent or unable to perform their duties, management reverts to a 'maintenance' mode. The role of the educator within an institution is also fundamental: since their role was established in the 1975 reform, they have been tasked with supporting the prisoner on their path to resocialisation and re-education. Indeed, they play a decisive role in the scientific assessment of personality and in facilitating access to alternative measures for prisoners serving definitive sentences. Educators also collaborate in the planning of all the institution's activities—educational, training, sporting and recreational—and seek to meet the many needs of prisoners, whether serving definitive sentences or not. Furthermore, in accordance with the ministerial circular that changed their title to 'legal-educational officers', they are tasked with coordinating the network both within and outside the prison to ensure a connection with the local community. As regards prison police staff, it should be noted at the outset that they constitute the majority of prison staff.

The institutional duties are set out in Article 5 of Law No. 395 of 15 December 1990, which stipulates that the Prison Police Corps is administered by the Department of Prison Administration of the Ministry of Justice, and carries out the provisions of both Law No. 354 of 26 July 1975 No. 354 on the prison system, and the implementing regulations, Presidential Decree No. 230 of 30 June 2000, as well as the provisions of Law No. 395/1990 itself and the service regulations, Presidential Decree No. 82 of 15 February 1999. Within the institutions, the Prison Police Corps is responsible for the following functions: ensuring the enforcement of measures involving deprivation of personal liberty; guaranteeing internal order and security in correctional and penal institutions; escorting prisoners and internees and providing guard duty for them in external healthcare facilities (e.g. hospitals); participating in public order, public safety and emergency services; taking part in the observation and rehabilitation of prisoners and internees, within the limits of police duties.

This last function highlights how the prison police, as the body closest to prisoners, are required to participate in observation and treatment, as stipulated by the regulations. This aspect helps to clarify how the police, educators and management must necessarily coordinate and collaborate in the performance of their duties. A necessary yet complex interconnection which, in the absence of concrete collaboration, is capable of generating inefficiencies.

3. The prison as seen by staff

3.1 Brief methodological introduction

Having briefly outlined the evolution of the regulations governing the prison system, highlighting some of its critical aspects to a limited extent, we will now analyse the responses to the anonymous questionnaires administered to staff, which can be viewed in the report published online (https://abide.jus.unipi.it/ordini-autorita-e-obbedienza-in-ambito-carcerario-unindagine-empirica/). The following participated in the questionnaire: six directors, three educators, one cultural mediator and twenty-one members of the Prison Police Force at various ranks. The selection criteria varied. Firstly, in selecting candidates, priority was given to members of the Prison Police Force and to the need to diversify their experience as much as possible, in terms of both seniority and juniority of service. Efforts were made to take into account other indicators capable of providing a good representation of the group: staff working in institutions with large and small prison populations; based on the geographical location of their institution, so as to provide the widest possible geographical representation; and finally, experience in both men's and women's institutions. The questionnaire was administered online via the Google platform, ensuring the anonymity of the respondents. As regards structure and content, the questionnaire consists of forty-six multiple-choice questions with the option to provide additional comments. The questions are in turn divided into four sections: profile and description of the prison officer's role; the organisation and methods of serving a sentence; the concept of order and its legitimacy/illegitimacy; and the function of punishment. Structuring the questionnaire anonymously made it possible to avoid the potential delays arising from the necessary authorisation by the relevant authorities. The responses will be presented in the following section, grouped by section.

3.2 Profile of the interviewees

In the first part of the interviews, the profiles of the respondents were examined, specifically their role, length of service and whether or not they were satisfied with their work. The respondents had varying lengths of service: 51% had worked for more than ten years in the Prison Service, 18% for between five and ten years, and 29% for between one and five years. 38% have served in more than three institutions, and the remainder in fewer than three. The majority of respondents, 64.5%, hold supervisory roles and are therefore in direct and constant contact with prisoners; 19.4% hold administrative roles; six are directors; three are educators; and one is a prison police officer. An

analysis of the staff profiles reveals the first critical issues: 35.5% work shifts exceeding eight hours, 51.6% work eight-hour shifts, and the remainder work six-hour shifts. As for prison officers, however, shifts should be six hours long and only exceptionally eight hours. The reasons for choosing a career within the prison service vary: financial considerations (5), a specific motivation (13), chance (11), and recommendations from friends or family (2). The assessment of job satisfaction, however, is clear-cut: only one respondent stated they were satisfied with their job, whilst 15 were partially satisfied, 13 were more dissatisfied than satisfied, and 2 were completely dissatisfied. When asked about the reasons for their dissatisfaction, 87% of respondents cited *burnout* and fatigue, 48% felt financially unfulfilled, whilst 25% stated that their dissatisfaction stemmed from their organisation being too focused on procedures, 13% from being too focused on security, and 9.7% from a lack of social recognition. It is clear from an initial analysis of the reasons for job dissatisfaction that, with 87% of respondents reporting *burnout* and fatigue, there are widespread critical conditions that significantly impact daily work. In light of this high level of dissatisfaction, a further reason is identified in the fact that 62% do not feel protected by their employment contract; among these, all the managers emphasised the absence of a specific contract for their category. The current contract, in the words of the managers, not only fails to recognise basic protections but also does not provide adequate safeguards in the face of a heavy burden of responsibility. One educator, however, reports being dissatisfied with her contract partly because it offers fewer protections than those in the Prison Police contracts.

3.3 Staff adherence to the prison organisation model

The second part of the interviews focused on the prison organisation and the methods of enforcing sentences. When asked about the critical issues relating to collaboration between the various operational areas within the institutions, 90% stated that the main critical issue is the lack of staff- , a systemic issue within the prison workforce; 48% said that roles are not adequately defined; 35% that there is no clear hierarchy among staff, 29% that there is no dialogue between departments, and 19% stated that certain roles operate with excessive discretion. Perceiving a lack of clear role definition and the absence of dialogue between departments are factors that can have a significant impact on teamwork and on defining one's scope of action. Reflecting instead on the treatment-security dichotomy, which informs staff members' daily actions, there is a balance in the responses: whilst 42% believe a balance is necessary, 42% believe that the emphasis on security should be increased (response from all officers), 13% believe that the emphasis on treatment should be increased (responses from all educators), and 3% believe that dynamic surveillance should be

removed. Thanks to this question, it is possible to begin to highlight a push, as will be described in more detail later, by a section of the Prison Police towards a security-focused approach, with a view to making prisons places of custody exclusively and partly neutralising the rehabilitative purpose enshrined in the Constitution. The response regarding the Ministry to which prisons should report is, however, unanimous: 80% answered the Ministry of Justice, 10% that they should be run by private entities, and 10% that they should report to the Ministry of the Interior. Looking at changes over time, however, 48% of respondents believe their role has changed for the worse, 42% that it has not changed, and only 10% that it has changed for the better. This thus confirms, on the part of the respondents, a dissatisfaction that has grown over the years as their role has deteriorated. As for the division into operational areas, 64% consider the division to be correct, whilst 26% believe that all staff should be incorporated into the Prison Police Force.

Focusing again on the division into areas of work, it then emerges that 61% believe that, although the division into areas is functional to an efficient organisational model that respects relevant constitutional and international standards—such as the prevention of torture—in practice, these areas do not communicate or collaborate with one another. These dynamics, widespread in many institutions, render the day-to-day work of staff inefficient, particularly in areas such as education and security, where collaboration is essential.

The main challenges encountered by the interviewees in their professional careers were: staff shortages (93%), overcrowding (80%), a high number of critical incidents (45%), inefficient organisation (45%), a lack of rehabilitation programmes (38%), and a lack of financial resources (38%). All these are significant issues that create tension within the prison environment and increase the difficulties faced by staff in carrying out their duties. Finally, an attempt was made to examine the relationship between the prison governor and the police management. Indeed, in the current organisational model within the prison, the role of the police management is structured in certain aspects in such a way as to overlap with that of the prison governor. Respondents identified the following problematic aspects of this relationship: 42% stated that police management should have greater powers, 32% that the hierarchical relationship is unclear, and 16% that the director's authority is subject to too many restrictions. This aspect confirms the desire, already highlighted, to make prisons merely custodial institutions, where security is treated not as a factor to be balanced against the possible further restriction of rights, but as the balancing factor itself.

3.4 Orders and obedience according to prison staff

The third part of the questionnaire sought to gather views on the concepts of legitimate and illegitimate order, authority and obedience, and then to reflect on the application of the law to daily practice. The majority of respondents stated that they were familiar with the content of Article 51 of the Criminal Code, entitled 'Exercise of a right or fulfilment of a duty' (90%), whilst only two-thirds of respondents stated that they were familiar with the provisions on orders set out in Law 395 of 1990. Regarding the current chain of command, when asked whether a change was necessary, respondents replied as follows: 45% said greater powers were needed for the security department, 35% said greater autonomy should be given to institutions by reducing the powers of the DAP, and 10% said greater powers were needed for the treatment department. There is therefore a clear need to change the current model, steering it towards greater autonomy for institutions, and above all towards a consolidation and expansion of the functions and role of the security department in each institution. Respondents then defined the concept of an order, based on the answers provided, as an administrative act in accordance with the law that imposes an obligation on the recipient to do or not to do something (90%), and the concept of a legitimate order as an order issued in compliance with the form and content prescribed by law and constitutional principles (70%). On this last question, half of the officers interviewed responded by defining a legitimate order exclusively as one issued in accordance with the law, thus not giving prominence, in the hierarchy of sources, to the Constitution in their day-to-day work. On the question, however, of what the concept of an illegitimate order might be for the interviewee, there is a balance between those who understand it as an order that violates the law and constitutional principles (48%) and those who understand it exclusively as an order that violates the law (48%, all of whom were officers), confirming what has just been reiterated. Subsequently, the interviewees were asked to provide a definition of authority: 68% defined it as the position of those vested with power who exercise it with full autonomy and discretion (all officers), whilst 32% defined it as the position of those vested with power in accordance with the law who exercise it in dialogue with other officers. Regarding the concept of obedience, 61% understood it as carrying out someone's orders or commands (all officers), 32% as carrying out someone's orders or commands whilst recognising their purpose and appropriateness, and 7% as being able to carry out an order immediately without assessing its content. A markedly military view of authority and obedience thus emerges, in which orders are not the result of collective assessment and, apparently, are presented as infallible and not subject to judgement. 90% of respondents stated that these definitions form part of their professional and personal training. When asked, however, how clear these definitions are within the respondent's professional category, 65% replied 'fairly clear', 22% 'not very clear' and 13% 'very clear'.

To understand how each professional views their role within the hierarchy, they were asked whether, within the organisational model adopted by the Institute, their role derives authority solely from the hierarchical structure or whether other factors also play a part. 29% replied that it was based exclusively on the hierarchical structure, 26% that their role carried no authority, 19% that greater experience compared to other staff members also played a part, and 19% that it was exclusively related to the hierarchical structure. Subsequently, when asked whether, between their training and the knowledge acquired on the job within the informal culture, which has the greater impact on their daily work, the respondents answered: 70% cited the knowledge acquired whilst working within the institution (i.e. from other officers, such as senior staff), and 29% cited both. When asked, however, whether in their view the hierarchy of sources (Constitution, laws, regulations, etc., right down to administrative circulars and service orders) is respected in prison, 62% stated that administrative measures always take precedence, 16% that the hierarchy is always respected, and 12% that the hierarchy is not respected and administrative circulars often take precedence over the law. Prisons are not a legal free zone; declaring a failure to respect the hierarchical order highlights a serious problem within the current prison system, particularly given that administrative measures often impose further restrictions on rights enshrined and protected by the Constitution. Looking instead at internal regulations – an important tool providing the set of rules governing daily life within an institution – 70% state that their institution either has no regulations or that those in place are more than 10 years old. When asked whether they had ever had to comply with an administrative circular that conflicted with higher-level laws or regulations, whilst 58% replied ‘no’, 39% replied ‘yes’, confirming the critical issue highlighted above. Furthermore, 22% stated that they had brought this discrepancy to the attention of their superiors. This highlights not only a fragmented application of the regulatory framework, with circulars taking precedence over the law, but also a possible uncertainty regarding what is lawful or unlawful when carrying out orders. Furthermore, 48% stated that there is an effect of excessive bureaucratisation within prisons that legitimises obedience to unlawful orders, whilst 45% denied this consequence. 42% stated that during their career they had witnessed the execution of an unlawful order. Therefore, this fragmentation appears to be a constant feature of work within prisons: a potential grey area of the law, where the unlawfulness of an order could take its most serious form and result in acts of violence.

Looking ahead, when considering the internal hierarchy, respondents are divided into two camps: whilst 68% stated that the chain of command within the Prison Police should stop at the Police Chief or Commander and not at the Director (all officers), in line with the idea of a prison serving solely as a place of custody, 32% believe it should stop at the Prison Chief.

When faced with incidents of torture or violence, the question was asked whether the police personnel involved are aware that they are obeying unlawful orders from their immediate superiors, and whether, in the interviewee's experience, unlawful orders are obeyed out of fear, ethical conviction or for other reasons. 42% stated that they obeyed out of shared values, 23% that they complied out of loyalty to the spirit of the force, 6% that they obeyed out of fear, and 6% that they obeyed to protect themselves. Finally, only 10% were aware of cases where there had been explicit disobedience of unlawful orders.

3.5 The interviewees' views on punishment

In the final part of the interview, an attempt was made to reflect on the function of punishment and on possible measures to resolve some of the most pressing issues within the prison context. The first question asked what the main function of punishment should be, from the interviewees' point of view: 35% answered rehabilitative, 26% retributive, 21% rehabilitative and retributive, and 9% rehabilitative, retributive and general-preventive. Regarding the possible existence of a gap between prison sentences, as outlined in Article 27 of the Constitution, and the reality of punishment, 77% stated that such a gap exists; furthermore, in explaining their response, they asserted that prison is unable to fulfil the rehabilitative purpose of punishment. This view was confirmed in the following question, which asked whether prison is capable of rehabilitating and reintegrating individuals into society: 64% replied that prison is not capable of rehabilitation (the majority of officers), whilst 32% said it is capable of rehabilitation.

Focusing on training, whilst 64% consider themselves satisfied with their training programme, 36% do not. Regarding actions to be taken to reduce suicides within institutions, the responses, in order of frequency, include: more stress-relief tools, more psychological support , granting a greater number of alternative measures, and 30% adopting isolation measures.

Regarding responses to reduce overcrowding, 65% suggest building new prisons, 52% granting more alternative measures, and 42% increasing the number of repatriations. Regarding measures to reduce the number of prisoners with mental health issues, 55% state that it is necessary to build new REMS (Mental Health Treatment Centres), 35% suggest providing alternatives to prison, 23% advocate for a greater number of alternative measures, and 16% propose re-establishing judicial psychiatric hospitals.

Regarding actions to improve healthcare services, 65% state that it would be necessary to reassign healthcare responsibilities to the prison administration, 52% to increase the number of healthcare staff, 29% to give greater responsibility to healthcare managers, 23% to optimise the

exchange of information with the Local Health Authority (ASL), and 10% to improve the procedure for specialist consultations.

4. Brief concluding reflections

Analysing how the mechanisms of obedience and disobedience operate within a total institution such as a prison inevitably begins with highlighting the fragmented nature of the prison context. Attempting to represent these mechanisms, therefore, cannot ignore the elements that underpin them and influence the processes and intentions of staff.

Although based on a small sample, the responses revealed possible ways of interpreting these processes, offering a snapshot of the mechanisms at work. First and foremost, the responses highlight a clear and unambiguous divide between prison police staff on the one hand and other staff members on the other, with differing and conflicting views and priorities regarding the prison system.

The first factor is the fragmented nature of the context. A combined analysis of the responses and the latest report by the Antigone Association on prison conditions reveals the partly systemic issues that make the daily work of staff extremely difficult: overcrowding, a constant shortage of staff, a high number of critical incidents, a lack of funding and a lack of activities. These dynamics inevitably affect staff members' daily lives, increasing their stress levels and hindering the effectiveness of their work. Furthermore, this fragmentation also extends to internal organisational complexity: the division into operational areas is a fundamental aspect in terms of work organisation; however, according to the interviewees, the areas tend to be un , do not communicate or collaborate, and, above all, as has been highlighted, lean towards a different vision of prison – in the case of officers, one more oriented towards meeting security needs. The responses also reveal the absence of a clear definition of roles and the hierarchical structure, and a feeling of not being protected by their contracts. All these dynamics partly explain the staff's dissatisfaction, as they foresee their working conditions deteriorating.

The second element of analysis stems from the fragmented nature of the legislation. The proliferation of circulars and service orders increases the state of uncertainty, not only regarding the rules to be applied, but also concerning the hierarchical and non-hierarchical relationships between staff members. It is therefore not surprising that, as acknowledged by the interviewees, they frequently find themselves having to apply circulars that conflict with the law. Furthermore, a gap persists between the provisions of the Constitution and the Prison Regulations on the one hand, and

actual practice on the other, caused in part by the constant presence of systemic issues that lead to daily operations being conducted as if in a state of constant emergency. This results in an ever-increasing restriction of prisoners' freedoms, with no clear limit being recognised for such restrictions. Furthermore, the majority of officers interviewed recognised an order that violates the law but not the Constitution as unlawful.

A fragmented and ill-defined hierarchical structure is inextricably linked to a fragmented hierarchy of sources. Prison life, in fact, has long been based on circulars rather than on laws. Not only that, but each institution, due to the objective difficulties in the process of approving the institutional regulations—a tool created to provide detailed internal rules governing life within the institution—operates through service orders issued by the director, layering regulations beyond what is reasonable and rendering them at times incomprehensible to both prisoners and staff. A mountain of detailed administrative rules that get lost over time and are often inconsistent with one another.

A third factor that may help to understand how staff operate is the renewed need to increase security levels within institutions. This is a concrete security imperative, in line with current criminal policy, which sees the 'security' element take precedence over 'treatment' in the security-treatment dichotomy. There is a push for prisons to be run by a police officer, with a view to militarising all staff and altering the hierarchical structure. This aspect likely serves to compensate, in day-to-day practice, for the lack, according to the interviewees, of a clear definition of roles.

Faced with such a fragmented and ambiguous model, officers struggle to distinguish between legitimate and illegitimate orders. The internal hierarchy within the police force is becoming increasingly important, both formal and informal. This aspect is further highlighted by the view expressed regarding the concept of obedience, in which— ly, the majority of officers interviewed— reiterated the need not to evaluate the order received but to carry it out without question and immediately.

In conclusion, the analysis conducted has highlighted how the fragmented nature of the prison context, both at an organisational level and in the definition of roles and the application of regulations, profoundly affects the development of a decision-making model that is not always consistent with legal and constitutional principles. The lack of clear respect for the hierarchy of sources contributes to decisions which, whilst formally fitting within a hierarchical structure, are partly distorted and often ineffective, creating grey areas where informal power and authority become confused. This regulatory and managerial disorder undermines the distinction between legitimate and illegitimate orders, jeopardising the very credibility of the institution. In this scenario, authority tends to be based more on custom than on regulatory legitimacy, giving rise to arbitrary practices that undermine the rehabilitative function of punishment.

Only a clear, coherent reorganisation that respects legal principles can restore a truly effective and legitimate decision-making structure to the prison system.