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Crime and Punishment in Renaissance Florence

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CRIME AND PUNISHMENT IN RENAISSANCE FLORENCE

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This paper centers attention on available records that best reflect the sentiments and behavioral manifestations of those sentiments concerned with the treatment of criminal offenders in Florence, Italy, during the fourteenth and fifteenth centuries. Florence is regarded as the birthplace of the Renaissance spirit, and the history of punishment there in this period has basic relevance to the development of methods dealing with persons who committed crimes. Many of the historical details which this study contains are reasonably well known, others are new or newly uncovered. The sociological implications of these details are less widely recognized. The view that crime and punishment of any period are not divorced from their social and cultural context is commonplace, but there are few empirical studies of this relationship. In general terms, this paper is an empirical examination of the genesis and development of some of the cultural values which underlie the social reaction to crime during the Early Renaissance in Florence.[1]

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[1] In this introductory statement, adapted to the topic under discussion, we have made use of Robert K. Merton's carefully stated qualifications, found in his study, *"Science, Technology and Society in Seventeenth Century England." See* Merton, *Science Technology and Society in Seventeenth Century England,* IV OSIRIS 360 (1938).

Some specific details of the present topic may be found in Wolfgang, *Political Crimes and Punishments in Renaissance Florence,* 44 J. CRIM. L., CRIMINOLOGY & POLICE SCI. 555 (1954), and Wolfgang, *Socio-Economic Factors Related to Crime and Punishment in Renaissance Florence,* 47 J. CRIM. L., CRIMINOLOGY & POLICE SCI. 311 (1956).

The idea that thought patterns are relative conditions arising out of the cultural and historical climate of a given area and time has been eloquently expressed by Louis Gottschalk. *See* Gottschalk, *The Historian and the Historical Document,* in THE USE OF PERSONAL

The temporal setting for the larger study of which this analysis is a part reaches from 1293, the year of the enactment of the famous Ordinances of Justice, to 1530 and the fall of the Florentine Republic. Historians generally agree that this was the period of greatest glory for Florence, where the Rinascita, or the rebirth of classical humanism, first and with most vigor occurred.

John Gillin defined crime as "an act that has been shown to be actually harmful to society, or that is believed to be harmful by a group of people that has the power to enforce its beliefs, and that places such act under the ban of positive penalties."[2] We shall adopt this widely applicable definition and the interrogative formulation of hypothesis in order to ask: What form did positive criminal penalties take in Florence during the period of its highest cultural prominence? What relationships existed between cultural values and the social sanctions employed by the group that had the power to enforce its beliefs? More positively stated, we might hypothesize[3] that, because Florence was the early home of the Renaissance and gave rise to a variety of new cultural traits, institutional patterns, artistic and scientific advances, and modes of thought, it correspondingly would have developed new patterns of social action for both the penal codes and the general treatment of offenders.

Examination of historical data relevant to this hypothesis has been made within a sociological orientation. The sociologist entering into this kind of interdisciplinary research is faced with the dual problem of obtaining historical detail and accuracy, and of synthesizing social, economic, and other institutional history with a variety of sociological conceptualisms. Most of the present paper is concerned with the latter problem, although brief reference to the former reveals some of the methodological problems of this research.

I. Sources of Data

Our analysis of crime and punishment in Renaissance Florence centers on an old prison known as *Le Stinche*. The prison was the focal point of the social reactions to law violation throughout the

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DOCUMENTS IN HISTORY, ANTHROPOLOGY AND SOCIOLOGY 3 (Soc. Sci. Res. Council Bull. No. 53, 1945). Historicism, he suggests, "insists upon the relation of ideas to historical circumstances (including other ideas); it maintains that ideas are only 'reflex functions of the sociological conditions under which they arose.'" *Id.* at 25.

[2] J. GILLIN, CRIMINOLOGY AND PENOLOGY 9 (1945).

[3] For a succinct discussion of the problems of historical analysis, especially problems of constructing hypotheses in a sociological study of history, see THE SOCIAL SCIENCES IN HISTORICAL STUDY: A REPORT OF THE COMMITTEE ON HISTORIOGRAPHY 66-105 (Soc. Sci. Res. Council Bull. No. 64, 1954); Mandelbaum, *History and the Social Sciences: Social Facts*, in THEORIES OF HISTORY 476-88 (P. Gardiner ed. 1959).

whole period of Florentine preeminence; it was constructed in 1301 and endured until 1835 when it was unceremoniously demolished. *Le Stinche* is not a common Italian name, and the etymology of the term offers interesting historical insight.[4]

The singular nouns *stinco* (m.) and, archaically, *stinca* (f.) are derived from Longobardian roots, and refer to the front edge of the tibia, the shin, or shinbone.[5] In Old High German, this same part of the anatomy is called the *scina*; in German, *schiene*; in Anglo-Saxon, *scinn*; in Middle English, *shine* and *schine*; and in Dutch, *scheen*.[6] This anthropomorphic meaning was logically projected to a topographically similar phenomenon. Thus, in Italian, the word also denoted the top of a hill, the highest ridge of a mountain, and the apex of a knoll. There is a close relationship between the archaic *stinca* and *cima* in Italian, for both words refer to the ridge or crest of a hill. The English word *chine* illustrates the same duality, meaning both backbone, or spine, and ridge or crest (*echine* in French and *eschine* in Old French), and has the same Teutonic origin as *scina*.

The first prisoners in the newly opened communal prison were political prisoners taken from the Ghibelline stronghold in Val di Greve, a castle belonging to the Cavalcanti family. The castle, named *Castello delle Stinche*, was located on the ridge of a hill. Through popular references to the *Carceri di Comune* as *Le Stinche*, official manuscripts and legal documents soon adopted the nomenclature that persisted for over five centuries.[7] Renaissance and even Florentine historians rarely mention the prison, or, if reference is made, it is usually peripheral to some political event. However, there are few court dispositions of criminal cases or few legal documents that fail to refer repeatedly to *Le Stinche*.

Prominent Florentines were imprisoned in *Le Stinche* at a time

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[4] Wolfgang, *A Florentine Prison: Le Carceri delle Stinche*, in VII STUDIES IN THE RENAISSANCE 161-62 (1960).

[5] Niccolo Tommaseo and Bernardo Bellini suggest: "*Altri forse dal ted. Stengel, gambale, pedale, tronco, o dal celt. gall. Stang, stecco brocco.*" ("Others, perhaps from the German, Stengel: leggings, pedals, trunk; or from the Celtic Gallic, Stang: dry twig.") IV N. TOMMASEO & B. BELLINI, DIZIONARIO DELLA LINGUA ITALIANA 1216 (1872). Nicola Zingarelli gives the root as a fusion of the Longobardian *skinko* and of *stecco*. N. ZINGARELLI, VOCABOLARIO DELLA LINGUA ITALIANA 1537 (1957). It should be recalled that the Lombards were one of the Teutonic tribes that invaded and settled in the Po Valley between 568 and 774.

[6] IV N. TOMMASEO & B. BELLINI, DIZIONARIO DELLA LINGUA ITALIANA 1216 (1872).

[7] The name *Le Stinche* was applied first to the castle of the noble Cavalcanti family, then to the city prison, and presently only to a small Florentine street. Pareto's reference to non-logical action represented in "residues of aggregates," or, combinations once made tend to persist regardless of changes in time and space dimensions, provides an interesting theoretical framework for analysis of the etymology of *Le Stinche*. *See* V. PARETO, MIND AND SOCIETY 11, 64-65 (A. Livingston trans. 1935).

when the prison was used principally for debtors and for offenders against the common law. Francesco Berni, the satirical poet, was imprisoned there for debt during the fifteenth century, and he incorporated the name of the prison into one of his poems, entitled *"In lode del debito."*

Giovanni Villani, one of the best-known chroniclers of the city, also spent some time in *Le Stinche*. In volume IV of one of the Sansoni editions of Villani's *Cronica*,[8] a section, written by Pietro Massa and entitled *"Elogio di Giovanni Villani,"* includes a full reference to the imprisonment of Villani in *Le Stinche*.[9]

In the records of people condemned by the *Otto di Guardia e Balia* for the years 1555 to 1560, there is a reference to an order of February 28, 1556, indicating that Benventuo Cellini, the well-known goldsmith, was convicted of having engaged in the act of sodomy, and was sentenced to confinement for four years in *Le Carceri delle Stinche.*

Finally, there is good evidence that in 1513, Niccolo Machiavelli was temporarily incarcerated in *Le Stinche* while he was subjected to questioning regarding his role in a local conspiracy. The questioning occurred as a result of a document found by the authorities that contained a list of names of some eighteen people, of whom Machiavelli was one.[10] Pietro Paolo Boscoli, one of the two youthful fanatics who resolved to assassinate Giuliano and Lorenzo de'Medici, had accidentally dropped the paper. Although Boscoli and his associate, Agostino Capponi, confessed on the rack, they contended that none of the people on the list knew of their tyrannicidal designs. Nonetheless, Machiavelli was tortured under questioning; he confessed nothing and was subsequently released.[11] During those arduous days, he wrote three poems dedicated, presumably, to Giuliano. Two of these were composed in his prison cell for the purpose of obtaining a pardon. In one, he describes the prison after having suffered six turns on the rack. He complains of the stench and the fact that the walls were crawling with vermin so big and swollen that they seemed like moths. One prisoner was be-

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[8] IV G. VILLANI, CRONICA 187-207 (Firenze 1845) [hereinafter G. VILLANI].

[9] There is no treatise on penology in English that mentions *Le Stinche*, except a brief reference by John Howard, the English penal reformer, who visited the prison in the eighteenth century. *See* J. HOWARD, THE STATE OF THE PRISONS IN ENGLAND AND WALES 108 (1792).

[10] For a careful description of this episode, see, *e.g.*, P. VILLARI, THE LIFE AND TIMES OF NICCOLO MACHIAVELLI 11, 32-33 (1878).

[11] A brief composite of documentary references to the torture of Machiavelli may be found in Wolfgang, *Political Crimes and Punishments in Renaissance Florence*, 44 J. CRIM. L., CRIMINOLOGY & POLICE SCI. 555, 566-67 (1954).

ing chained, another loosened, and a third crying that the ropes were hoisting him too far from the ground.

Although there appears to be no etymological association between *stench* and *stink* in English and *stinche* in Italian, the word *stinche* was used occasionally as a metaphor for bad conditions of life, and even for a bad odor. In a sonnet by Jacopo Paganelli, sent to his cousin, Antonio Paganelli in 1468, the poet writes: *"E son in una stufa, onde un odore surge, che quel delle Stinche . . . ."* ("And I am in an oven whence a stench arises, that of *Le Stinche.*").[12] In time, the word became a generic term for prisons even outside Florence, but the principal reference after the fourteenth century remained that of the Florence prison.

Although many source materials have been employed to ascertain the conditions of crime and punishment in Florence, the 500 volumes in the Archivio di Stato, Florence, that relate directly to the prison constitute the most direct evidence of the type of treatment accorded criminal offenders. These volumes, which have remained virtually untouched by historians, are known as the *Archivio delle Stinche*: they are part of the state archives and are housed below the Uffizi Gallery in Florence. The manuscripts, both in Latin and Italian, supply information regarding commitments and discharges of prisoners, the types of offenses, length of stay in the institution, and how inmates were discharged (*i.e.*, payment of debt, sentence served, amnesty, and pardon). The rules and regulations of the prison administration, the treatment to be given various offenders, and the relationship between crime and punishment are clearly detailed in these manuscripts.[13]

A basic problem for contemporary sociologists engaging in this kind of archival research is their naivete regarding historical documents and detail. They must become aware not only of the fundamental historical facts related to the period in question, but they also must determine which documents and manuscripts are important, which have been accepted as authentic, and how to read them. There is a variety of auxiliary experts, such as Latin philologists, epigraphers, paleographers, numismatists, heraldists, genealogists,

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12 F. FLAMINI, LA LIRICA TOSCANA DEL RINASCIMENTO 546 (1891).

13 Although the state archives of Florence contain reference to a provision passed by the Consiglio de' Cento for construction of the prison on March 12, 1297 (*Provvisioni, Archivo di Stato di Firenze*, 8, c. 51'), the earliest records of the prison itself unfortunately were destroyed in the siege of the institution in 1343 during the popular overthrow of the government of the Duke of Athens. Consequently, there are no documents of commitments to the prison in 1304 when the first prisoners were housed there. The earliest date found among the commitment records of the *Archivio delle Stinche* is for October 16, 1343 (*"Inventario dei Magistrato dei Soprastanti alle Stinche"*).

chartists, bibliographers, and chronologists, who can aid them in this process. At the very least, sociologists must become acquainted with the works of these experts, if not with all their techniques of textual criticism. As Max Weber has eloquently said,

> He who is not in daily contact with source materials . . . is never safe from error in details, and it is therefore quite evident that the final verdict concerning these problems is a matter for historians, archaeologists, and philologists, to whom on our part we merely offer for testing the heuristic aids and suggestive questions that derive from our experience as sociological specialists.[14]

It would be inappropriate in this paper to discuss problems of historiography or the rules of validity and reliability of historical documents, but reference to Louis Gottschalk's outline in abbreviated form will serve to illustrate the kinds of source materials employed in this research.[15]

(a) Records contemporary to the times included bills, appropriations for prison construction, payment of salaries to guards and administrators, reception of fines and taxes, and commitments and discharges from prison. The *Archivio delle Stinche* falls into this classification. Training in problems of paleography was necessary in this case in order to read the more difficult passages. Handwriting was consistent for long periods of time, which was fortunate, but during a long period, such as that from 1301 to 1530, many different handwriting styles inevitably appeared. It was necessary to learn an abundant number of Latin and Italian abbreviations common to amanuenses of the period. Many writing shortcuts do not appear in current dictionaries of medieval and Renaissance abbreviations, and it became necessary to rely upon an expert paleographer for assistance.[16] A sociologist cannot hope to master all the techniques, but repetition of terms and similarity of materials often results in sufficient delimitation of these problems so that he or she can overcome most of them.

(b) Confidential reports included journals, diaries, and personal letters. The diary of Landucci during the fifteenth century, for example, was immensely valuable.[17] Although the diary was used by

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[14] Becker, *Culture Case Study and Greek History: Comparison Viewed Sociologically*, 23 AM. Soc. Rev. 489, 490 (1958) (citing M. WEBER, GESAMMELTE AUFSATZE ZUR SOZIAL UND WIRTSCHAFTSGESCHICHTE 280 (1924)).

[15] Gottschalk, *The Historian and the Historical Document*, in THE USE OF PERSONAL DOCUMENTS IN HISTORY, ANTHROPOLOGY AND SOCIOLOGY 15-27 (Soc. Sci. Res. Council Bull. No. 53, 1945).

[16] A debt of gratitude is due Professor Gino Corti, Florentine archivist, for his paleographic assistance. Professor Corti is as known as the chief paleographer contributing to I. ORIGO, THE MERCHANT OF PRATO (1957).

[17] L. LANDUCCI, DIARIO FIORENTINO DAL 1450 AL 1516 (1883).

chroniclers throughout the history of Florence for a variety of selective purposes, it has not been fully exploited for its references to the crimes and punishments that Landucci knew, heard about, or saw himself. Other diaries, some of which were anonymous, appear to reflect accurately the social conditions of the times during which they were written. Several letters written by prisoners in *Le Stinche* to people outside were especially useful for descriptions of their crimes and the forms of treatment they received while in prison.

(c) Public reports, such as memoirs of important political figures, were useful, and some of the histories of Florence were in many respects autobiographical. Such is the case with Villani,[18] the famous chronicler, and Giovanni Cavalcanti,[19] who wrote much of his history of Florence while in the prison in 1427. In the Sala Tuscana of the Biblioteca Nazionale Centrale in Florence, there is a section devoted exclusively to official and unofficial histories of Florence and Tuscany. A considerable amount of time was spent going through 450 books in this section because most of these did not have indexes, and the books required careful reading in order to determine whether anything of value may have been mentioned relative to legislation, governmental structure, public and private morals, crimes and punishments, and prisons. Books on Florentine historiography were regularly consulted to determine which histories were no longer considered accurate and valid. Unfortunately, few books are devoted to the examination of crime and punishment as such in Florence. The works of Dorini,[20] Fiorelli,[21] and Beltrani-Scalia,[22] however, are extremely useful historical accounts.

(d) Governmental documents included proceedings of official bodies, laws, regulations, and municipal ordinances, administrative orders found in the records of the Podesta, the Capitano del Popolo, the Priors, Councils of the Signory, and in the *Consulti, Provvisioni,* and *Statuti.*

(e) Fiction, song, and poetry provided some insights, especially the satirical works of Berni[23] and Machiavelli,[24] both of whom wrote poems briefly describing their surroundings in *Le Stinche* while imprisoned there. Sacchetti's novella, his short stories of public

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[18] G. VILLANI, *supra* note 8.

[19] G. CAVALCANTI, ISTORIE FIORENTINE (Firenze 1845).

[20] U. DORINI, IL DIRITTO PENALE E LA DELINQUENZA IN FIRENZE NEL SECOLO XIV (1916) [hereinafter U. DORINI].

[21] P. FIORELLI, LA TORTURA GIUDIZIARIA NEL DIRITTO COMUNE (1953).

[22] M. BELTRANI-SCALIA, SUL GOVERNO E SULLA RIFORMA DELLE CARCERI (Torino 1867) [hereinafter M. BELTRANI-SCALIA].

[23] Opere di Francesco Berni 148-49 (1887).

[24] N. MACHIAVELLI, OPERE 1076 (Milano n.d.).

morals and punishments meted out for a variety of offenses, offered delightful descriptions of the times.[25]

II. THE CULTURAL SETTING[26]

There is no need to elaborate here the details of the rise of Florence to a position of political, economic, and artistic dominance. The facts are well known and documented, but some generalizations particularly pertinent to our main interests may be useful.

As Crane Brinton has graphically pointed out, the Early Renaissance and the Late Middle Ages are fused like a trainwreck in time. The Renaissance was less a time period than a mode of life and thought. Florence was the Athens of the continent, and during this period had reached a capitalistic stage of large investment, central provision of materials and machinery, a systematic division of labor, and control of production by the suppliers of capital. Almost all life was organized into guilds—the bankers, merchants, manufacturers, professional men and skilled workers. The seven guilds were known as *arti maggiori*, or greater guilds, whereas the minor trades were known as *arti minori*. Every voter had to be a member of one or another of these guilds; the nobles who had been disenfranchised in 1282 by a bourgeoisie revolution also joined the guilds to regain the vote. Members of the greater guilds constituted in politics the *popolo grasso*, the fat or well-fed people; the rest of the population composed the *popolo minuto*, or the little people.

The political history of Florence, like that of modern states, consisted of the victory of the business class over the land-owning aristocracy (1293) followed by the struggle of the working class to acquire political power. This struggle for power involved two social classes. The Ghibellines were a group associated with nobles and imperial rulers in Europe; the Guelfs were associated with the Comune, the People of Florence, and had loose but favorable ties with the papacy. The *Bianchi* (Whites) and *Neri* (Blacks) were divisions that occurred within the Guelf party, the former having become identified with the Ghibellines and the latter with the Guelfs. As the Guelfs struggled with the Ghibellines, exile, banishment, confiscation of property, mob violence, and public hangings became

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[25] F. SACCHETTI, IL TRECENTONOVELLE (1956).

[26] It would be impossible to list here the histories of Florence that present in detail substantially the summary material used in this section. Any standard social history of the city is recommended; of particular value is F. SCHEVILL, A HISTORY OF FLORENCE FROM THE FOUNDING OF THE CITY THROUGH THE RENAISSANCE (1936). Perhaps one of the most authoritive histories is R. DAVIDSOHN, FORSCHUNGEN ZUR GESCHICHTE VON FLORENZ (1908).

part of the political intrigues and machinations throughout the Renaissance.

But this was also the period of great artistic advancement: Ghiberti worked on the great bronze doors of the Baptistry; Masaccio gave new life and realism to painting with his frescoes in the Carmine church; and Brunelleschi raised the vast dome that surprised the architects of his day. Similarly, interest in antiquity flourished: two wealthy families—the Strozzi and the Medici—vied with each other in the collection of Greek manuscripts from the East, and the Strozzi brought from Byzantium the learned Manuel Chrysolaras to teach at the University of Florence. Finally, it was in 1434 that Cosimo de' Medici inaugurated that subtle, indirect personal rule that lasted for over a century and during which *"vivano le palle"* ("long live the balls")[27] was often heard.

In the Middle Ages, political power with religious sanction had prevailed; then came the era of an intellectually supported economic power. The spirit of capitalism began to rule and to replace the former divine element. For the sociologist, says Alfred von Martin, interest in the period lies in the fact that it presents him or her with the complete rhythmic progression of the ideal type of cultural epoch dominated by the bourgeoisie.[28] Because the mercantile and industrial capitalist elements asserted power over the master craftsmen and all others, Florence became an aristocracy of commerce. Social values came to be dominated by a money economy, and it was the power of money that lead Aeneas Sylvius in the early Renaissance to say, "Italy, always delighting in a new thing, has lost all stability . . . a servant may easily become a king."[29] The state itself became a capitalist entrepreneur, for business methods served political ends and political means served economic ends. Criminal and other types of legislation were dictated by bourgeoisie aims and interests; merchants and politicians began to calculate and plan, and politics took on the spirit of reason, which had been alien to the medieval state at a time when the church was the only guiding institution. The new governing class of the Florentine Commune, regardless of specific family or party changes, was built upon the foundation of the new money economy, the free development of individual forces, and the centralization of power. Almost all spheres of life were subjected to conscious and rational regulation, and the unifying factor, using Durkheim's dichotomy, was no longer an or-

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27 Three balls symbolized the Medici family.

28 A. VON MARTIN, SOZIOLOGIE DER RENAISSANCE (1932); A. VON MARTIN, SOCIOLOGY OF THE RENAISSANCE (W. Luetkens trans. 1944) [hereinafter A. VON MARTIN, SOCIOLOGY].

29 A. VON MARTIN, SOCIOLOGY, *supra* note 28, at 5.

ganic and communal one but a mechanical social organization.[30]

III. THE IDEA OF IMPRISONMENT AS PUNISHMENT

Although judicial torture, corporal punishments, and many executions occurred during this period, the idea of imprisonment as punishment *per se* and without corporal punishment was born and cultivated within the culture context of Renaissance Florence. Dungeons, prisons, and cells have always existed, of course, but generally not until the nineteenth century were prisons used for anything but detention of prisoners awaiting trial or execution after conviction. The Justinian *Digest* states: *"Carcer enin ad continendos homines non ad puniendos haberi debet"* ("Prisons exist only in order to keep men, not to punish them"). This was the dominant principle throughout the Middle Ages and until recent modern times in most countries.[31] There are probably isolated antecedent examples of imprisonment as a form of punishment, but the earliest known general usage appeared in the Houses of Correction in Amsterdam beginning in 1596, and in the Elizabethan Houses of Correction.[32]

The major evolutionary line of historical continuity of the penitentiary idea and of the use of imprisonment as a form of punishment or treatment of the offender can be traced through the charitable work and institution of Filippo Franci[33] and the monastic cells described by Dom Jean Mabillon in the seventeenth century;[34] the Hospice of San Michele in Rome erected by Pope Clement XI; the *maison de force* developed by Vilain at Ghent during the eighteenth century;[35] and the Pennsylvania, or separate system, in the Eastern State Penitentiary in Philadelphia, along with the Auburn, or silent system, in New York during the nineteenth century.

Evidence from the records of *Le Stinche* pushes back the use of imprisonment as a form of punishment to the early fourteenth century. In the *Archivio delle Stinche* may be found references to commitments of people convicted of theft, homicide, gambling, robbery, rape, sodomy, and so forth, for specific periods of time. Life impris-

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[30] E. DURKHEIM, DIVISION OF LABOR IN SOCIETY (G. Simpson trans. 1964).

[31] G. RUSCHE & O. KIRCHHEIMER, PUNISHMENT AND SOCIAL STRUCTURE 62-71 (1939).

[32] For the Amsterdam Houses of Correction, see T. SELLIN, PIONEERING IN PENOLOGY (1944); for those in England, see Van der Slice, *Elizabethan Houses of Correction*, 27 J. CRIM. L. & CRIMINOLOGY 45 (1936).

[33] Sellin, *Filippo Franci—A Precursor of Modern Penology*, 17 J. CRIM. L. & CRIMINOLOGY 104, 107-09 (1926).

[34] Sellin, *Dom Jean Mabillon—A Reformer of the Seventeenth Century*, 17 J. CRIM. L. & CRIMINOLOGY 581 (1927).

[35] Sellin, *The House of Correction for Boys in the Hospice of St. Michael in Rome*, 20 J. CRIM. L. & CRIMINOLOGY 533 (1930).

onment (*"confinato a perpetuo carcere"*) was used frequently. Generally, judges in Florence, unlike those elsewhere on the Continent, were given little or no latitude in the choice of sentence because the type of punishment for particular crimes existed in the penal statute books.[36] The rise of the Classical School of Criminology, stemming from Cesare Beccaria's *Dei delitti e delle pene* (1764), it should be remembered, occurred primarily because of opposition to the arbitrary dispositions and sentences of judges—common pre-Classical phenomena that returned to Florence only after the fall of the last Republic in 1530.

During the fourteenth and fifteenth centuries, however, crimes in Florence were defined by and punishment came to be mitigated by substitution of deprivation of liberty alone. Children and other relatives on demand of parents, guardians, or the Comune could be imprisoned *"pro amendare"* or *"pro correctione"*—an indication that imprisonment was viewed both as a punitive and rehabilitative measure. In prison, the men were separated from the women, the children from the adults, and the sane from the insane, as indicated by the *provvisioni* (1296), which set up and appropriated funds for the new prison. Prisoners were enclosed in separate cells, with serious felons segregated from minor offenders, and heretics from common-law violators. Imprisonment replaced corporal punishment for bankruptcy and default on public or private debts. Unlike other parts of Europe where people awaiting trial spent years under detention, the amount of time in Florence was usually less than thirty days, and limited to thirty days by statute. Release procedures were fully established by law, furloughs and conditional releases were permitted, and commutation of death sentences to five to ten years in prison was not uncommon. It is also of interest to note that the scattered private buildings rented by the Comune as prisons to detain the untried and those sentenced to death (the Bellanda, Burella, Paliazze and Volognano) disappeared with the construction of *Le Stinche*, the municipal prison in 1301 ordered built by the newly solidified, centralized political power.

Thus, the untapped *Archivio delle Stinche* has opened a new and earlier chapter in the evolution of punishment and provided the historical sociologist and penologist with abundant and fresh historical details regarding definite periods of imprisonment, the use of deterrence and even of reformation as a rationale for punishment. Deprivation of liberty, with many additional new concomitants, instead of deprivation of limb, was a Renaissance Florentine innovation. Only

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[36] *See, e.g.*, U. DORINI, *supra* note 20; M. BELTRANI-SCALIA, *supra* note 22, at 24.

continuing historical research will determine whether Florence was positively the first place, and the fourteenth century the first time, that imprisonment was used as a social form of punishment *per se*. Research at present takes us back no further and to no other locale. In any case, the association between restriction of freedom as a means of punishing criminal offenders and the socio-cultural environment of a rising capitalist society appears undeniable.

IV. THE SOCIOLOGICAL SYNTHESIS

Although culture case study is ideographic, the goal of historical analysis for the sociologist is, as Becker says,[37] toward the nomothetic pole, to try to generalize, to produce some kind of *Gesetzwissenschaften* ("legal science"). If it is true that punishment is used by society to the extent that it is acceptable to that society, then the introduction of sentences for definite periods of time, which occurred during the fourteenth century and markedly increased in the fifteenth century, are symptoms of the changing temper of the time.[38]

Social institutions generally do not move or change in a phalanx;[39] one or more basic institutions move into a position of cultural dominance for a period, but not without effecting change in other institutional structures and functions. Fundamental changes in the original structure of capitalism took place in the thirteenth and fourteenth centuries in Florence, and were felt in politics, religion, art, and in the social reaction to the criminal. The money economy of the *haute bourgeoisie* encompassed the idea of expediency, calculation, and planning, and the rationalism which was a more or less dominant feature of profit economy from the outset became absolute. As Arnold Hauser has suggested, the new element in the economic life of the Renaissance was "the consistency with which tradition was sacrificed to rationality and the ruthlessness with which all the resources of economic life were put into practical use and turned into an item in the ledger."[40] There was a new materialistic approach that estimated a person according to his

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[37] Becker, *Culture Case Study and Greek History: Comparison Viewed Sociologically*, 23 AM. SOC. REV. 489 (1958).

[38] This statement is an adaptation of an earlier assertion in a different context found in Merton, *Science Technology and Society in Seventeenth Century England*, IV OSIRIS 360, 414 (1938).

[39] P. Schrecker, WORK AND HISTORY (1948). See especially Schrecker's Chapter XIII, "On Patterns, and the Influence of Knowledge on Their Function." *Id.* at 151.

[40] 2 A. HAUSER, THE SOCIAL HISTORY OF ART 11, 24 (1957).

or her achievement and his or her output according to its value in money.

The attitude of the merchant toward God was a reflection of the money economy. God was something like a business partner, and Giannozzo Manetti could speak of God as the *"maestro d'uno trafico"* ("master of commerce"), for the world became analogous to a big firm.[41] The religious emphasis on good works in Roman Catholic Florence implied that one could open an account with God. Villani regarded the giving of alms as a means of securing divine help almost by contract; the honoring of the contract was of the highest virtue in the code of the honest merchant. Similarly, the Comune opened a kind of contract with the criminal offender, who paid for his failure to abide by legal norms through punishment by fine or by time in prison.

The relationship between money, time, and punishment provides a meaningful "understanding" (in Weber's terms) of the Florentine innovation of imprisonment as a form of punishment for crime. Money, capital, and mobile property were linked together and, seen from this perspective, time was money. The power of space—the immobile soil—had been considered a conservative power, while time was now viewed as the great liberal power. In the Middle Ages, power belonged to the person who owned the soil, the feudal lord; but, in the Renaissance, Alberti in Florence could rightfully say that he who knew how to exploit time and money fully could make himself the master of all things.[42] In Simmel's framework, money and time imply motion; as he said:

> There is no more apt symbol than money to show the dynamic character of this world: as soon as it lies idle it ceases to be money in the specific sense of the word . . . the function of money is to facilitate motion.[43]

Money, because it circulates as landed property cannot, produced a new mobility in Florence.

Typical corporal punishments of the Middle Ages were static in nature. When a man's hands were cut off for forgery or stealing, his tongue removed for blasphemy, or his eyes gouged out for spying, there was an irrevocable "poetic" or symbolic punishment inflicted on the offender—a punishment that was static and constant both in the form it took on the person and in its meaningful nexus to the crime. However, beginning with the fourteenth century, punish-

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[41] A. VON MARTIN, SOCIOLOGY, *supra* note 28, at 17.

[42] *Id.* at 15 (citing A. ALBERTI, DELLA FAMILGLIA 137 (Mancini ed. n.d.)).

[43] *Id.* at 15 (citing G. SIMMEL, PHILOSOPHIE DES GELDES (n.d.)). General use is made of von Martin's sociological approach in this section.

ment in Florence took on a more mobile, dynamic tenor. A period of time in prison is of this character. Punishment for failure to pay a debt was not uncommon throughout Europe, but the form it took was static and amounted in most cases to corporal punishment of some sort—the pillory, the carcan and so forth. In Florence, however, where time and money were closely allied, imprisonment for a determinate, calculated amount of time was a conceptually natural concomitant to one's failure to pay a civic or public debt. Thus, the more dynamic nature of time spent in prison replaced the staid quality of a corporal punishment, such as branding or a loss of a hand, that had permanently stigmatized an offender in the Middle Ages. Under social conditions that permitted greater mobility, an individual could overcome the past experience of imprisonment and still rise to a position of wealth and prominence without the scars of infamy.

Not only was time equated with money, but the tempo of life was likewise increased. Only then was there formulated a new interpretation of time as a value, as something of utility. Time seemed continuously to be slipping away, and it is interesting to note that only after the fourteen century did clocks in Italian cities of Tuscany strike all twenty-four hours of the day.[44] This changed conception of time viewed it as short and valuable, and one had to use it economically if one wanted to become the "master of all things." We are told that Antonius of Florence recognized time as *"res pretiosissima et irrecuperabilis"* ("a thing most precious and irrecoverable").[45] Such an attitude had been unknown in the Middle Ages when time was plentiful and there was no need to look upon it as something precious. It became so only when regarded from the viewpoint of the individual who could think in terms of the time measured out personally to him. It was scarce simply because of natural limitations, and thus everything had to move more quickly. The merchant or banker wanted his villa built quickly; whereas, in the Middle Ages, it had been possible to spend hundreds of years on the completion of a castle, town hall, or cathedral. Man was part of the all embracing unity during the Middle Ages, and life transcended its natural span. In the naturalism, individualism, and rationalism of the Renaissance, life and time began to move rapidly.

When time is so conceived as a major value, when time even in value terms is correlated with money, then the bourgeoisie that writes the laws and determines the punishments might naturally

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[44] *Cf.* C. CIPOLLA, CLOCKS AND CULTURE, 1300-1700 (1967).

[45] A. VON MARTIN, SOCIOLOGY, *supra* note 28, at 86.

view a time of imprisonment as a just and sufficient punishment. Months or years out of a man's life rob him of a period of vitality, of social mobility, of opportunities for accumulating wealth. A man's labor is his time; a man's time is his money; and a punishment that takes both from him is consistent with the value system. Not all punishments were in the form of a prison term; however, corporal punishments still occurred, but less frequently. The most flagrant examples of earlier forms of corporal punishments came largely through the extra-legal methods used during riots, mob violence, and rapid changes in which political leaders punished their enemies.[46]

In the commitment records of *Le Stinche* there are many references to a quantum of time considered as equivalent to money. In the *provvisioni*, in the *statuti*, in the *Reforma delle Stinche* (1514) and elsewhere, repeated mention is made of the fact that a certain number of days is equal to a certain portion of money. If a man did not pay his debt in England or Germany, he usually suffered corporal forms of punishment. In Florence, he was sent to prison for a definite period of time and ways were found to help him pay his debt. The use of a determinate sentence also was employed for robbers, thieves, prostitutes, and other kinds of common-law offenders. So far as it is known, such careful calculations as those made by the councils and courts of Florence were among the first to be found in Europe.

In one sense then, each individual was a kind of temporal entrepreneur, a concept which truly coincided with the new capitalist attitude in economic affairs. Simmel discerns a causal relationship to the money economy when he says that "it is a money economy which for the first time created the idea of exact numerical calculation," and when he suggests that the "mathematically exact interpretation of the cosmos" is the "theoretical counterpart of a money economy."[47] As von Martin suggests, this method of interpreting the world by a number of mathematical equations, this way of regarding the world as a big arithmetical problem with absolutely impersonal, abstract, interchangeable, and measurable qualities presents a complete contrast to the more spontaneous and emotional attitude of the Middle Ages.[48] The "spontaneous and emotional attitude" is also descriptive of the earlier arbitrary sentences

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[46] Wolfgang, *Political Crimes and Punishments in Renaissance Florence*, 44 J. CRIM. L., CRIMINOLOGY & POLICE SCI. 555 (1954).

[47] A. VON MARTIN, SOCIOLOGY, *supra* note 28, at 21 (citing G. SIMMEL, PHILOSOPHIE DES GELDES (n.d.)).

[48] A. VON MARTIN, SOCIOLOGY, *supra* note 28, at 21-22.

given by medieval judges. In a way that Beccaria was to suggest much later, Florentine criminal statutes expressed the sentiments, and prison commitment documents recorded the behavioral manifestations of these sentiments, regarding a calculated, impersonal, measurable amount of time or money as punishment for specific criminal offenses.

A feeling of liberty was part of the *Zeitgeist* ("spirit of the time") of early Renaissance Florence. In his description of this period, Jacob Burckhardt combines the idea of individualism with that of sensualism, the idea of self-determination of personality with emphasis on the protest against medieval asceticism, the gospel of the joy of life and "emancipation of the flesh."[49] Thus, restriction of liberty could now be considered a punishment commensurate with legal norm violation. We are contending, therefore, that a significant interrelationship existed between increasing individualism, the greater freedom of movement in an urban democracy, the increasing sense of liberty (despite the presence of some slaves and occasional restrictions placed on Jews) and the birth of the concept of deprivation of liberty as a socially sanctioned and sufficiently severe punishment that began to replace corporal penalties.

Changes in the plastic arts and in architecture have been correlated with socioeconomic changes, and artistic innovations in the Early Florentine Renaissance were not unrelated to the cultural conception of crime and punishment. In his *Philosophy of Art History*, Arnold Hauser makes a trenchant comment directly related to our theoretical position:

> If one allows that some social preconditions of criminality can be found, it seems incomprehensible that one should not admit similar conditions of artistic production. The spiritual world of the artist may be incomparably more complex than that of the criminal, but as far as the relation between individual freedom and social causation goes, there seems to be no difference of principle between the creation of a work of art and the commission of a crime.[50]

To approach Weber's *Verstehen* in an analysis of crime and punishment during this period of Florentine history, the sociologist, it seems, can turn with profit to art history. Florentine art was characterized, we are told, by "limitation and order," "monumental forms and firm structures," and the basic element in this conception of art was the principle of uniformity.[51] With this line of reasoning, we are suggesting that penalties according to statute instead of by judicial

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49 J. BURCKHARDT, THE CIVILIZATION OF THE RENAISSANCE IN ITALY (1954).

50 A. HAUSER, THE PHILOSOPHY OF ART HISTORY 275-76 (1959).

51 2 A. HAUSER, THE SOCIAL HISTORY OF ART 10 (1957).

caprice symbolized an approach to penal uniformity. Moreover, Hauser claims:

> The principles of unity which now become authoritative in art— the unification of space and the unified standards of proportions, the restriction of the artistic representation to one single theme, and the concentration of the composition into one immediately intelligible form—are also in accordance with this new rationalism. They express the same dislike for the incalculable and the uncontrollable as the economy of the same period with its emphasis on planning, expediency and calculability .... The things that are now felt as 'beautiful' are the logical conformity of the individual parts of a whole, the arithmetically definable harmony of the relationships and the calculable rhythm of a composition.[52]

In the new theory of punishment implicit in criminal codes, judicial precedents, and prison records, Florence expressed these same sentiments of calculability and an "arithmetically definable harmony." A calculated, definite period of time spent in prison, when time was equated with money and personal value, reflected the ethos as well as did the new art forms. The conveying of an impression of depth by means of perspective in painting also became something of a mathematical problem. That perspective remained linear in Florentine art is related to the linear perspective toward punishment for crime. Time is a continuum, and a specific term of imprisonment is a legal linear perspective the Florentines embraced in their penalties.

Among the common factors that Simmel mentions in his analogy of money and intellectualism are a "lack of tangible substance," "independence of matter," and "a degree of impersonal objectivity that may be released in a purely formal way and applied to any end."[53] Using this framework, we are led to suggest that, whereas corporal punishment was dependent on matter, and quite obviously, was manifestly personal and had a very tangle substance implied in its use, the serving of time in prison possessed the characteristics of impersonal objectivity, independence of matter, lack of tangible substance, and could be applied to any particular offender regardless of the offense.

IV. FURTHER RESEARCH AND CONCLUSIONS

Further research is required to determine whether it is possible to project the generalizations contained in this analysis of Florence to any other time or locus. Sellin's study of the Amsterdam Houses

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[52] *Id.* at 15.

[53] As summarized by A. VON MARTIN, SOCIOLOGY, *supra* note 28, at 37-38.

of Correction, Rusche and Kirchheimer's analysis of punishment and the social structure, and the development of prisons in the United States in the nineteenth century suggest that historically, social structures dominated by emerging capitalism were associated with the use of imprisonment as a new form of punishment.[54]

The history of *Le Stinche* from this point on, the innovations introduced in the administration and treatment of prisoners, the position of the prison in the history of penology, an analysis of the records of commitment and discharge of offenders, changes in the criminal statutes, and an interpretive theoretical discussion of the relationship of these phenomena of crime and punishment to the culture milieu of the *Rinascimento* in Florence—all of these topics constitute significant areas for further examination. I shall conclude with a brief reference to the fact of the structure itself and what is remembered of it today.

For over 500 years *Le Stinche* occupied a large block of real estate—a quadrilateral area isolated from the rest of the city by a street on each side. Before the buildings inside the surrounding walls were torn down, the streets that bordered the prison were: *Via del Luvio* (east), *Via del Palagio* (north), *Via del Mercantino*, also called *San Simone* (west), and *Via del Lavatoi* (south).[55] On August 15, 1833, Leopold II approved the sale of the prison, and the buildings were demolished. The Accademia Filarmonica and later the Teatro Verdi, which still stands, were architectural euphemisms that replaced the prison. The street names have changed over the course of time. After the destruction of the prison, *Via del Mercantino* was changed to *Via dell' Isola delle Stinche* as a reminder of the site of the former prison. Only *Via del Lavatoi* on the south retained its name when the other streets were changed to *Via Verdi* (east), *Via Ghibellina* (north), and *Via dell' Isola delle Stinche* (west).

From *Via Torta*, past the small square in front of the Chiesa di San Simone, toward *Via Ghibellina*, the name of *Stinche* has become a short street reminiscent of a long history, a small stretch of land instead of a large building, and an open area that recalls a former enclosure. From a Ghibelline fortress on the summit of a hill in Val di Greve to a prison of significance during the Early Renaissance, and finally to a contemporary street in Florence, the name *Le Stinche* has evolved and survived.

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[54] *See supra* notes 35 and 31, respectively.
[55] D. Guccerelli, Stradario Storico della Citta di Firenze 258-59 (1928).