

FIGHT AGAINST RECIDIVISM IN ITALY: A CASE-STUDY ANALYSIS

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1. Background to the prison situation and the serving of sentences.

In order to present an overview of the situation in Italian prisons, it is necessary to go all the way back to 2006, when the Parliament promulgated as an emergency the law of Grant of pardon¹, the aim being to address the terrible situation of overcrowding in adults' prisons.

Thanks to this measure, within six months, 22,259 detainees were released from prisons, this way reducing the total prison population by a third, bringing it back down to 39,000 people (the regular capacity was around 43,000 places).

This measure, however, did not work. It did not work, but not because it set free again "hardened criminals and repeat offenders" and people feared that their security would be threatened again (Jocteau, Torrente, 2007). It did not work because all the other conditions remained unchanged.

In fact, over the past years, the financial and human resources dedicated to the management of the execution of custodial sentences did not increase substantially, the number of staff members in the educative area remained unchanged, reaching the ratio of one educator for every 100 inmates, while the number of people working in the security sector increased by 130%.

The prison's physiognomy was always inclined to being on a mere containment facility, betraying, somewhat, the reformer spirit of 1975² which fulfilled its function on the rehabilitation programs. This is because it is difficult to improve a "rehabilitation program" inside an organisation where every day it is hard to guarantee fundamental rights for everyone, starting from the right to health, to the sleeping spot, and sometimes even the right to personal dignity.

Therefore, the number of the detainees grew even faster than before, on 30th June 2010 reaching the record figure, never recorded before, of 68,258 (the regular capacity was around 45,000 places). These figures also show that the biggest part of the increase of the detained population refers to people characterised by a significant social marginality. The picture of this population, in fact, can be taken from the overlapping of a series of selective criteria (geographic area, age, gender, level of education, job).

The geographical area criterion reveals that the percentage of foreign inmates raised from 8% in the mid-80s to 33.3% in 2010; the age selection shows the predominance of young people, aged 25-40 years, the gender criterion highlights that the majority of convicted people are male.

As for the characteristics of social inclusion, these data reveal that only a small part of the prison population had a stable job before going to prison (about one fifth), a large part of them did not finish the compulsory education, a substantial part of them did not receive any form of education³. Another piece of the jigsaw is the 27% of inmates that are addicts: this figure is the result of years

¹ Law No. 241 of 31st July 2006, "Grant of pardon". This law grants a pardon for all offences committed up to 2nd May 2006, thereby reducing custodial sentences by up to three years and fines imposed separately or in conjunction with custodial sentences by up to €10,000. Certain exceptions related to particular types of crimes are made, such as kidnapping for the purpose of subversion or terrorism, Mafia-type association, reduction into slavery, and people trafficking.

² Law No. 354 of 26th July 1975 "Prison rules and rules on the execution of measures involving deprivation or limitation of liberty".

³ Figures synthetically given here are available at the following page of the Ministry of Justice:

https://www.giustizia.it/giustizia/it/mg_1_14.page?selectedNode=0_2

of policies that transfer problems to the criminal justice system, problems that should be resolved in other areas (Sette, 2015, pp. 308-311).

Given the gangrenous situation, on 13rd January 2010, the Italian Government wanted to imprint a positive turn to the now chronic and structural situation of prison overcrowding and declares the “Prisons emergency plan” (until 31st December 2014). This plan is organised around the following four pillars: the first two pillars provide for measures regarding prison buildings with the aim of increasing their capacity; the third pillar concerns legislative provisions, while the fourth one provides for increases in prison police staff members (around 200 new hires).

Actually, the most effective measure over time is the one concerning the third pillar of the “Prisons plan”, Law No 199 of 26th November 2010⁴ because its entry into force by 31st July 2020, allowed 28,369 prisoners⁵ to serve their remaining part of their sentence in home detention.

Generally, the “Prisons plan” led to an increase in prison capacity of 4,415 places between 2010 and 2014 (Andreuccioli, 2017, p. 19), but it was not enough to reduce the prison population for the same reasons as the “Grant of pardon” law of 2006 failed, as mentioned previously.

In addition to these reasons, there is the fact that the pre-trial detention continues to be used in a disproportionate way, even for petty crimes (DAP, 2012); and that the average length of stay in prison of foreigners has been increased (even for short sentences) under certain laws (law “ex Cirielli”⁶ and finally because one “security law” followed another since 2008⁷ in order to “thwart the phenomena of illegality linked to illegal immigration and organised crime) that have limited the access to the alternative measures of detention for this category of prisoners (DAP, 2010).

Despite interventions since 2006, Italy has not been able to guarantee the respect of fundamental prison conditions required by the European Council and, in fact, 2013 began with the sentence towards Italy from the European Court of Human Rights (“Torreggiani” sentence, 8th January 2013), that described prison treatment as “inhuman and degrading”, highlighting that the recourse to detention needs to be used as a last resort both as a precautionary measure during the trial, and in the choice of sentence, using other measures or sanctions where possible.

Following this sentence, Italy adopted legislative measures, even if incoherent and only partially effective over time, to: 1) reduce the scope of pre-trial detention in prison; 2) limit the prison entry of certain categories of convicts (pregnant women, parents raising children under 10 years of age, individuals with serious health conditions, those over 60 years of age when partially incapacitated and individuals between 18 and 21 years of age); 3) strengthen the application of the probation; 4) abolish the prohibition to apply more than twice the rehab probation for drug addicts or alcohol dependents; 6) establish the National Authority (Ombudsman) for the rights of detained individuals and those deprived of their liberty, responsible for ensuring that measures involving deprivation of liberty comply with the laws and principles set out in the Italian Constitution and international human rights Conventions.

On 8th March 2016, the Committee of Ministers of the Council of Europe decided to close the procedure against Italy, positively evaluating the implementation of the plan presented following the Torreggiani judgment and, in particular, the establishment of the National Ombudsman for the Rights of Persons Detained or Deprived of Liberty which became fully operational on 25th March 2016.

⁴ “Provisions on the execution at home of prison sentences”. Originally this law referred to prison sentences of a maximum of 1 year, then the Decree Law No 211 of 22nd December 2011 raised this limit to prison sentences of a maximum of 18 months.

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⁶ Law No 251 of 5th December 2005 “Modifications to Criminal Code and Law No 354 of 26th July 1975 regarding mitigating circumstances, and recidivism”.

⁷ Urgent measures regarding public security.

The first report to Parliament presented by the National Ombudsman on 21st March 2017, however, still found many critical issues (Andreuccioli, 2017, p. 36).

In addition to the persistent overcrowding (57,608 prisoners with a regulatory capacity of 50,499, n.b. the number of prisoners reached 59,655 at the end of 2018), the condition of many facilities due to age, the chronic shortage of staff, the Authority reports the problematic condition of prisoners with disabilities, homosexuals, transsexuals, or sufferers of serious physical or psychiatric diseases, whose difficult management “can reach absolutely unacceptable levels of treatment of a vulnerable and sick person, appropriately defined with the adjectives 'inhuman' and 'degrading' used by the ECHR” (Garante Detenuti, 2017, p. 67).

In 2017, the incidence of self-harm (8,540 cases in 2016 and 1,262 in the first two months of 2017), attempted suicides (1,006 in 2016 and 140 at the beginning of 2017) and committed suicides (40 in 2016 and 12 only in the first two months of 2017) are still worrying: a rate that, in prisons, is 12 times higher than outside, so much so as to urge the definition of a National Plan of intervention for the prevention of suicides in prison.

Therefore, the year 2019 ends with the now bleak detection of the presence of 60,769 prisoners (of which 2,663 women, 4.4%, and 19,888 foreigners, 32.7%) against a regulatory capacity of 50,688 places. The official overcrowding rate is therefore 119.9.

At the end of 2019, the shortage of personnel is still very evident: the prison police would need 4,500 more people (12.3%), but it is the group of educators that highlights a worse situation since, in theory, it should be composed of 895 people while there are only 779, i.e. one educator for every 79 inmates (Associazione Antigone, 2020, pp. 39-40).

Focusing on prisoners, 37% come from the poorest Italian regions, only 705 have a university degree, 32% have a middle school certificate of completion and 13.7% have at most only an elementary school certificate of completion. Those who claim to be drug addicts represent more than a quarter of the total population. Only 29.7% of inmates are employed (both by the Prison Administration and by other agencies).

All this translates into a scenario that continues to be characterised by scarcity of human and financial resources available to the prison system, marginality (Ibidem, pp. 29-33) and very difficult living conditions, even from a hygiene point of view. In fact, some members of the Antigone Association⁸ in 2019 visited 98 prisons and in 25 of them even the 3 square metre criterion per prisoner was not met; in 22 prisons visited there were also cells without hot water to clean oneself and in 52 there were cells without a shower, a situation that forces prisoners to use communal showers. In 8 institutions there were cells where the toilet was exposed in the cell, rather than being in a separate room.

All this makes one imagine the difficulties of life in prison also from a hygienic point of view and the obvious consequences for the spread of infectious diseases (Associazione Antigone, 2020, p. 11).

Prisons pose particular risks especially for infectious diseases caused by a virus, e.g. COVID-19, given that the spread of infectious diseases is a serious problem in prisons along with what happened in the world. Italy was unprepared to face a pandemic, especially one with the size the caused by Covid-19, and the health emergency confronted the prison system with pre-existing deficiencies and critical issues that emphasised its inadequacy to cope with the typical phenomena: overcrowding, lack of space for health needs, structural degradation and hygienic issues in many prisons, along with the weakness of the health service (Garante Detenuti, 2020, p. 65).

Between 7th and 10th March 2020, serious disturbances occurred in many Italian prisons. In some cases, these were protest demonstrations without damage, but more frequently there were real riots lasting hours and leading to tragic consequences with significant damage, thirteen prisoners died, officers injured and many escapees from one prison (Garante Detenuti, 2020, p. 62).

⁸ Antigone is a NGO association “for the rights and guarantees in the penal system” founded in the late ‘80s. Its website is: www.antigone.it

The situation required extremely rapid intervention and was addressed at the legislative level as a whole, acting basically on two fronts: the prevention of the entry of contagion into the prison and the reduction of the density of the detained population (Garante Detenuti, 2020, p. 65).

On the part of the Prison Administration and the Government Authorities, the first front has seen the implementation of a progressive and heterogeneous series of measures designed to limit as much as possible both the access from outside of people other than the staff and the transfer of prisoners from one prison to another. Just as in the free world, so in the prison world contact with family members was cut off and treatment, social, educational, study and work activities have been suspended. The prison became an “empty” world, closed while remaining open to the many who entered every day to provide essential services (Ibidem). The situation of suspension of ordinary life in prisons lasted until the first days of May 2020 due to subsequent acts of the Government that extended the suspension of movements and activities for the entire Italian population.

The second front, the one set up to reduce the density of the detained population, was limited to the provisions of some articles of Decree Law no. 18 of 17th March 2020 which introduced in the laws of the penitentiary system, respectively, a special mode of access to home detention and the extension of temporary licenses granted to persons admitted to the semi-freedom of day release, both until 30th June 2020. (Garante Detenuti, 2020, pp.67-68).

As a result of these emergency measures, the total number of detained individuals decreased considerably (as of 31st July 2020, 53,619 against a regulatory capacity of 50,558). However, the number of detained foreigners remained unchanged (17,448, i.e. 34.5% of the total).

Certainly, the hope is that this trend of reduction in the prison population will continue until it reaches a density rate of less than 100 and that it will be possible to (gradually) continue to reflect on the possibility of serving the sentence in many ways and not only in prison (as required by Article 27 of the Constitution which speaks of the re-educational function of "serving sentences" and not punishment), also with the aim of reducing recidivism.

2. Recidivism: definitions and possible “measurement”.

When we analyse the phenomenon of recidivism, the first issue we need to deal with is its definition, then we approach the exact figure of its extension.

From a legal point of view, it should be noted that no regulatory system fails to sanction and punish recidivism (Rocchi, 2008-2009, pp. 151-152), and with reference to Italy, Article 99 of the Criminal Code, which opens Chapter II on recidivism, habitualness and professionalism in crime, and tendency to delinquency defines three types of recidivism:

- simple recidivism that occurs when an individual, after having been convicted of a crime committed with intent, goes on to commit another crime, again with intent;
- aggravated recidivism, which occurs when the new crime committed with intent is: a) of the same kind⁹ as the previous one or so-called specific recidivism; (b) was committed within five years following the previous conviction or the so-called “5-year recidivism”; and (c) was committed during or after execution of the sentence, or during the time when the convicted person voluntarily absconded;
- repeated recidivism, when a person, who has already been classified as a recidivist, commits another crime with intent.

The reason why recidivism is correlated by the Italian Criminal Code only with the commission of crimes with intent, i.e. intentional committed wrongdoings and crimes, is due to the fact that it is considered to be an indicator of the high propensity of the offender to commit a crime (Mantovani,

⁹ Pursuant to Article 101 of the Italian Criminal Code, crimes of the same kind are not only those that violate the same legal provision, but also those that, although being governed by different provisions of this code or different laws, share, by virtue of the underlying facts or reasons, in individual cases, essential common characteristics.

1992, p. 661). It is an expression of ethical insensitivity to the obligation not to break the law demonstrated by the offender after conviction (Ibidem, p. 664), which, therefore, lead to an increase in punishment and further consequences such as restriction on the granting of benefits provided by the prison law. In this sense, recidivism is a parameter for measuring the success, or rather the failure of the rehabilitation process implemented after a previously committed offence.

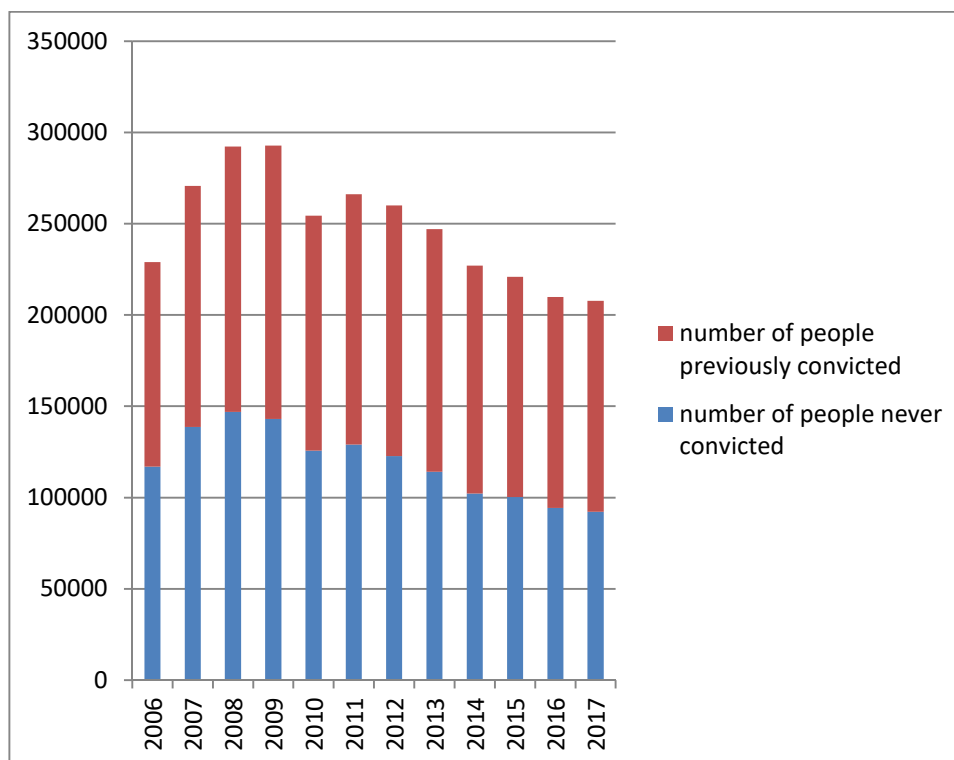
The study of the extension of the phenomenon of recidivism is useful to the judicial and penitentiary systems in order to develop increasingly appropriate and scientifically based instruments to find the potential risk factors that can contribute to the repeat of the crime, and also to find individual routes to social reintegration after prison, ways which should be effective for the reduction of the risk of recidivism (Volpini, Mannello, De Leo, 2008).

In spite of the scarcity and fragmented nature of published data and follow-up studies on recidivism of former convicted individuals (Manconi, Torrente, 2015, p. 193), it is still possible to measure the extent of this phenomenon by looking first at the statistics of defendants convicted by the final court judgment published by ISTAT (National Institute of Statistics)¹⁰.

In particular, with reference to the statistical tables related to the “defendants convicted with a final judgement and characteristics of sentenced crimes”, classification of data is made on the basis of the existence of criminal records and specific type of recidivism.

Data for defendants convicted refer to years 2006-2017¹¹ based on which the following frequency distribution was made (graph 1).

Graph 1: Defendants convicted by final judgment (years 2006-2017) (Source: analysis of data by the author on the basis of ISTAT data)



An analysis of the frequency distribution between 2006 and 2017 showed that sentenced individuals previously convicted by the final judgment in Italy and abroad, if such sentences were recognised by the Italian State, made up, on average, 52.3% of the total convicted population. However, it

¹⁰ Available at: <http://dati.istat.it>

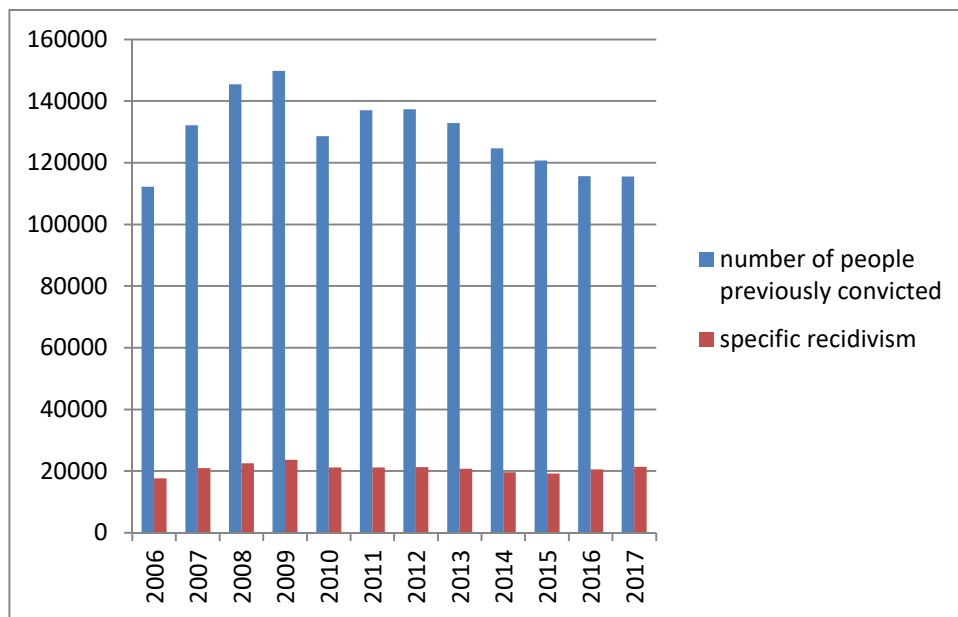
¹¹ Note that by the time of the final draft of the work in Summer 2020, no more recent data had been published.

should be stressed that this percentage was of around 48.8%-51.5% between 2006 and 2011, but starting from 2012 this percentage has been increasing up to 55.6% in 2017. Unfortunately, we are not able to infer from these statistics the whole judicial profile of defendants convicted.

The most worrying aspect of these data is that it highlights the fact that in case of at least half of the convicted individuals, the criminal sanction did not achieve its aim of deterrence against crime.

The graph below shows the proportion of convicted individuals with specific recidivism against the total of individuals previously convicted.

Graph 2: Defendants convicted by final judgement previously convicted with specific recidivism (years 2006-2017) (Source: analysis of data by the author on the basis of ISTAT data)



Over the period considered, it can be seen that the aggravating circumstance of specific recidivism is attributed, on average, to 16.1% of convicted individuals; the trend of this percentage is varying between a minimum of 15.5% in 2012 and a maximum of 18.5% in 2017.

It will be interesting to continue to monitor these findings to verify whether this figure remains relatively stable over time or whether the percentage of individuals who come under the category of aggravating circumstance of specific recidivism increases. In fact, in this last case, it would be necessary to draw the necessary conclusions in order to re-orientate criminal polices and social reintegration programs for offenders.

Moreover, the frequency distribution of gender of convicted individuals brings a reality to light that, although not interpreted in a wholly satisfactory manner by a series of theories (as explained, for example, in Fadda, 2012; Balloni, Bisi, Sette, 2015, pp. 327-340), is nonetheless easy to ascertain, and that is the emancipation of women in contemporary western societies, which has not led to an increase in the recorded crimes committed by women, albeit the percentage increase in female delinquency rate exceeds that of men, and that women continue to be portrayed as victims rather than perpetrators.

In fact, in the years examined, on average 15.7% of all convicted individuals were women. This percentage further decreases when we take only the convicted individuals with criminal records (10.9%) into consideration, and it falls even further when we restrict it to specific recidivists (9%).

The recidivism phenomenon scenario radically changes when we analyse data published by the Department of Prison Administration (DAP) on the revocation of alternative measures to

detention¹², which ultimately shows that such measures are wholly effective in preventing convicted individuals from re-offending during implementation of the measure and, accordingly, are suitable for ensuring adequate social protection.

Unfortunately, no further official follow-up statistics, ensuring implementation of the measure, are available; therefore, it is impossible to make an accurate assessment of the long-term effectiveness of the alternatives to detention. However, one should be aware that, from a socio-criminological point of view, correlating statistical data on individuals who have benefited from alternatives to detention on the progress of the measure and on offences committed after the conclusion of the alternative to detention, presents a serious drawback as such correlation does not provide useful information on the actual pathways that may or may not have led to the committing of a new offence. This is due to the fact that as “the reasons for committing the new offence may have absolutely nothing to do with the way the punishment was enforced” (Santoro, Tucci, 2006, p. 86).

In view of this situation, however, it is anyway interesting to analyse the official data presented by the DAP regarding the progress of the implemented alternative measures to detention.

These data are grouped in different categories and a few methodological clarifications are necessary. In fact, there are five categories: revocation due to violations; revocation due to lack of juridical requirements; revocation due to recidivism during the execution of the measure; revocation due to untraceability; revocation for other reasons.

First, the category “revocation due to lack of juridical requirements” means that, during the execution of the alternative measure to detention, the offender is newly convicted, and it prevents them from continuing to execute the sentence in this way. This fact does not automatically indicate the existence of a criminal history but, as often happens, it might mean that the person concerned has committed several crimes during a certain period of their life and that the person will be convicted at different times (Casarosa M., Erbi S., Lo Giudice M., 2010).

This situation could potentially cause incalculable damage to the social reinsertion process of the person concerned and the worst thing is that this damage is provoked by the delays in judicial system. Because it is not possible to know more details on this aspect, it is necessary to specify that the following analysis shall take this type of revocation into consideration.

It is also necessary to analyse the “revocation due to violations” category because, while not necessarily indicating the commission of any offences by the person during the execution of the alternative measure to detention, this category anyway shows that their behaviour seems to be incompatible with the social reinsertion program because they had not respected the requirements imposed by the judge in full.

As far as the “revocation for other reasons” is concerned, it is too vague to be analysed here, while the “revocation due to untraceability” is taken into account because it may indicate foreigners who return to their country of origin, thus avoiding the execution of the sentence.

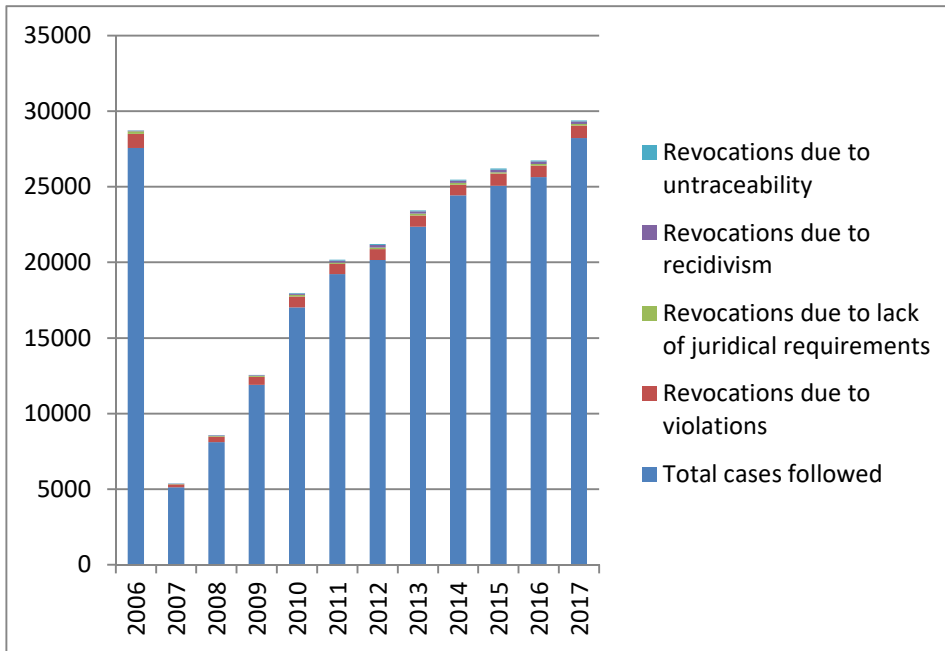
With reference, first and foremost, to probation¹³, which is the broadest alternative measure among those provided for by the Italian prison law, revocations due to violations between 2006 and 2017 represented an average of 3.6% of the cases followed¹⁴ and the value was less (3.1%) during 2013-2017 (see graph 3).

Graph 3: Revocations of probation (years 2006-2017) (Source: analysis of data by the author on the basis of ISTAT data)

¹² It should be noted, however, that data on convicted individuals and data on revocations of alternative measures to detention are not directly comparable, even if they relate to the same time period.

¹³ The regulatory framework for the Italian probation system is the “affidamento in prova al servizio sociale” (probation to social work).

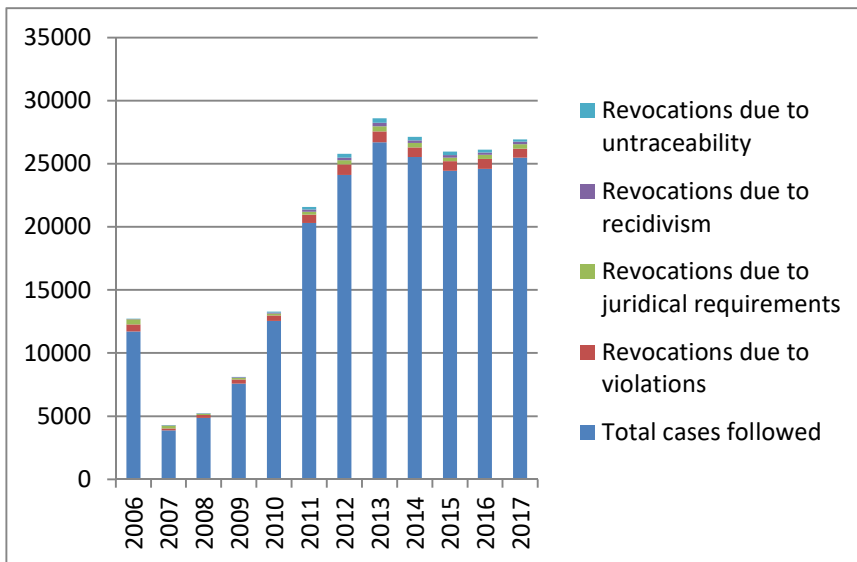
¹⁴ The cases followed comprised of cases received in the year of reference and of cases already handled in that year.



Revocations of home detention cases follow a similar pattern as to that of probation, which has even more positive implications in my opinion because home detention in Italy, and unlike the probation system, is characterised by the absence of any aim to rehabilitate; instead, it constitutes an alternative way of executing a sentence and a measure of prison deflation, although forecasts specifically targeted at convicted individuals who are mothers constitute an exception¹⁵. In general, even revocations of home detentions between 2006 and 2017 amounted an average of 3.6% of the cases followed and the value was less (3.1%) during 2013-2017 (see graph 4).

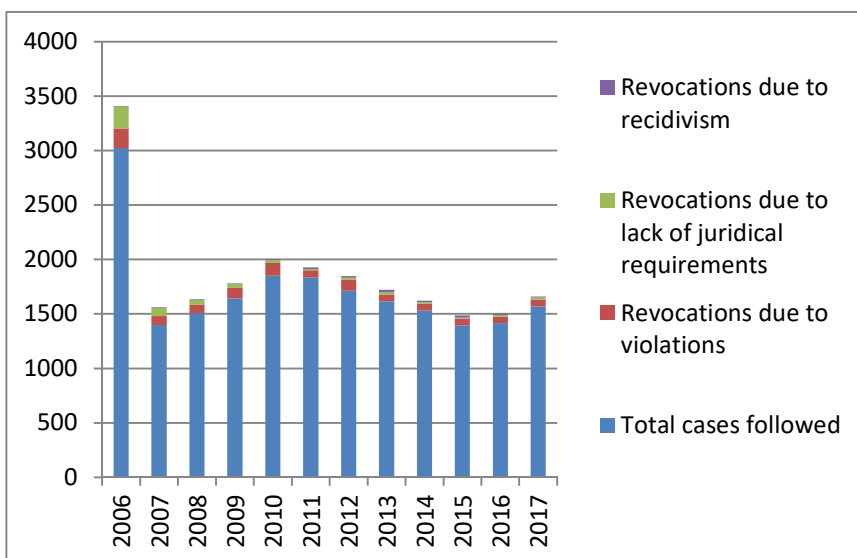
Graph 4: Revocations of home detention (years 2006-2017) (Source: analysis of data by the author on the basis of ISTAT data)

¹⁵ The alternative measure of special home detention was introduced in the Italian prison law (Article 47-*quinquies* of Law No. 354 of 26th July 1975 and subsequent amendments) following a particularly difficult parliamentary debate lasting several years, which concluded with the promulgation of Law No. 40 of 8th March 2001 on “Alternative measures to detention to safeguard the relationship between detainees and minor children”. The law represents an important element in the context of measures to resolve some of the problems of the prison system and, in particular, the relationship between detained mothers and their children, by specifically safeguarding two basic rights such as motherhood and the interest of minors. In fact, the special home detention scheme allows women prisoners, mothers of children up to ten years of age, to serve part of the sentence at home and look after their offspring in a family environment. Previously, home detention, as an alternative measure for sentenced mothers, was of limited scope, because it only applied to mothers who had to serve a term of imprisonment (including a remaining term) of not more than three years and only until the child was five years of age.



Finally, with reference to the partial alternative measures to detention, namely “day release”, the higher percentages of revocations recorded (4.98% in 2006-2017 and 4.2% in 2013-2017) as compared with the percentage of probation is not unexpected (see graph 5); and it may be related to the actual nature of the measure, which, unlike probation, can even be granted when there is a greater degree of “uncertainty about the reliability in terms of the daily return of the convicted person to the prison to maintain continuous control over them” (Pavarini, Guazzaloca, 2004, p. 133).

Graph 5: Revocations of day release measure (years 2006-2017) (Source: analysis of data by the author on the basis of data from www.giustizia.it)



Some reflections on these data carried out by the Department of Juvenile and Community Justice of the Italian Ministry of Justice (2020) evidence the importance of the programs based on a philosophy of self-responsibility (job, therapeutic treatment, etc.) in order to prevent the risk of recidivism, to build relationships of trust between offenders and the penal system, also through the help of prison and probation staff. This analysis also confirms the importance of family, informal networks and of the individualisation of social reintegration programs.

3. On the issue of recidivism via some case-studies.

There is a clear need to have statistics and research regularly published to gain insight into significant data on the prison population, of individuals receiving alternative measures to detention and of those released from the penal system, in order to have interpretative models to use to understand the dynamics of social reintegration programs implemented by prisons and Probation Services.

This is because recidivism is one of the main parameters, even if indirect, necessary to evaluate the performance and efficiency of the whole penal system, and in particular of the penitentiary sector.

Unfortunately, reliable and periodical data are not yet available in Italy, the evaluation of the risk of recidivism is not fully integrated into current practice, and, in many cases, the involvement of an individual in a social reintegration program during detention or outside the prison depends on the initiative of each prison¹⁶ and on available resources.

Moreover, it is not enough to consider the small number of revocations of alternative measures to detention (i.e. data mentioned in graphs 3, 4 and 5) as a measurement of the rate of recidivism because it may be assumed that some individuals receiving the alternative measure behave prudently during the measure and possibly commit new crimes when the risk of revocation terminates. In other words, it should be borne in mind that some of these individuals could comply with the requirements only to avoid a return to prison. In addition, the duration of the alternative measure to detention are too short to use the number of their revocations as an indicator of the positive social reintegration of offenders who received this kind of penalty (Olivo, 2017). Additionally, data about individuals convicted with a final judgement already previously convicted (i.e. data mentioned in graphs 1 and 2) give an under-estimation of the reality because, as it is well known, not everyone who commit a crime is then convicted by final judgment.

As a matter of fact, a study carried out nearly 15 years ago (Leonardi, 2007) highlighted that the percentage of recidivism among people who served their sentences (entirely or in part) by alternative measures to detention was about 19%.

During a press conference in 2016¹⁷, the Italian Minister of Justice stated that a precise quantification of the recidivism risk was not available yet because they did not have a consolidated database, but as a general rule he was able to estimate this rate with a percentage more than 60%.

Then, a Decree of the Minister of Justice of 20th June 2018 established a working group named “Permanent Observatory on recidivism” with the aim of creating a system for analysing the efficiency of the implemented offender reintegration programs. This is a preparatory system prior to the study of recidivism predictive factors and its aim is to identify the most effective course of action (Dipartimento per la giustizia minorile e di comunità, 2020).

¹⁶ Many program are implemented for the social reintegration of prisoners detained in the 189 Italian prisons. Moreover, sex offender rehabilitation programs are particularly numerous. Sometimes, we find out about this from the newspapers, for example: (2016). “A Chieti 45 detenuti speciali: hanno commesso reati sessuali”. *Il Centro*. 9/6/2016. URL: <https://www.ilcentro.it/chieti/a-chieti-45-detenuti-speciali-hanno-commesso-reati-sessuali-1.167405>; Martini, R. (2017). “Così trasformiamo i sex offender. In carcere un progetto scientifico”. *La Stampa*. 22/11/2017; Mancusi, A. (2018). “La vertigine del sex offender”. *Il Manifesto*. 10/3/2018; (2018). “Percorsi di psicoterapia per i detenuti colpevoli di reati a sfondo sessuale”. *TrentoToday*. 18/9/2018. URL: <https://www.trentotoday.it/cronaca/reati-sessuali-psicoterapia-carcere-spini-fondazione-caritro.html>; (2019). “Un progetto per il trattamento dei detenuti per reati sessuali”. *TusciaWeb*. 5/2/2019. URL: <http://www.tusciaweb.eu/2019/02/un-progetto-favore-dei-sex-offenders-detenuti/> (2019). “Poggioreale: concluso progetto Emozioni per recuperare”. *Istituzioni24.it*. 7 luglio 2019. URL: <https://www.istituzioni24.it/2019/07/07/carceri-poggioreale-concluso-progetto-emozioni-per-recuperarsi/>; Bodrero, L. (2019). “Reati sessuali e rischio recidiva, a Torino il progetto pilota per la riabilitazione”. *Il Fatto Quotidiano*. 18/7/2019.

Referring to scientific research regarding the treatment of sex offenders in Italian prisons, it should be noted: Adragna, A. (2016). “Il trattamento dei detenuti sex offenders nel carcere di Castelvetrano (TP)”. *Rivista di Criminologia, Vittimologia e Sicurezza*. X, 1, 26-39. DOI: 10.14664/rcvs/612; Scardaccione, G. (2020). *Sex offender treatment program in prison and rehabilitation*. In: Balloni, A., Sette, R., *Handbook of Research on Trends and Issues in Crime Prevention, Rehabilitation, and Victim Support*. Hershey, PA (USA): IGI Global, 375-397.

¹⁷ <https://vimeo.com/191079360>

Unfortunately, at the time of the final draft of the work in Summer 2020, this Observatory has not yet published any report on its activities.

However, it should be noted that a sentence executed outside prison is not always more decent and effective than prison detention. In Italy, in fact, as it is conceived, home detention, even when executed at home, is a penalty that is only partially more effective and dignified than prison detention because it is characterised by the lack of rehabilitation purposes and it is qualified rather as an alternative way of executing the sentence (Pavarini, Guazzaloca, 2004, p. 136).

Therefore, it is not enough just to relocate outside the fence of the prison some periods of the execution of the penalty. It should instead be considered what the alternative penalty to detention should be, what its objectives are and what changes are expected for both offenders and society (SGEP, 2016, p. 65).

In fact, even the execution of the sentence in prison can give positive, long-term and lasting results if it is executed through programs ensuring holding offenders responsible for their actions and being capable of critically revising their behaviour, together with, if appropriate, adequate reparation for victims. For this purpose, it is important to refer to a research carried out by the DAP, the Regional Department of Prison Administration of Milan, and the “Milan Bollate” prison (Mastrobuoni, Terlizzese, 2015).

The assumption here is that it is difficult to measure the effect of a “treatment” because the individuals “treated” are different from the “non treated” ones, even for reasons different from the “treatment”. In this perspective, this study aimed to examine the life stories of all Italian male not sex-offender prisoners, who were detained in “Milan Bollate” prison during the period of 2001-2009. They were 2,318 of them. The results showed a reduction in the rate of recidivism, approximately 10% for every year of execution of the sentence in this prison instead of in other prisons.

In order to be able to make better prison policies, it is of course important to understand the reasons underlying these results. In this sense, the research highlighted that the rate of recidivism has mostly decreased for prisoners who committed economic crimes, for prisoners with few previous convictions, for prisoners with significant relationships with their family outside the prison, and for those having a lower level of education.

So, dignified living conditions, even if in detention, responsabilisation and industriousness, seem to be effective factors to activate positive reintegration paths, even if further follow-up studies will be needed to empirically prove this hypothesis.

In this respect, mass media describe this prison¹⁸ as a “prison serving as a model for other prisons”. Certainly, this is an institution that seems particularly worthy of imitation, but not because it constitutes an exception, but rather because it should be the rule as to say the rule of a “normal” prison strictly built on the principles of the Italian penitentiary law, international conventions and European Recommendations.

It remains clear that, both from sparse Italian data and socio-criminological literature, even the social reintegration phase after the execution of the sentence (inside or outside the prison) is essential in terms of recidivism.

¹⁸ See as examples: Stucchi, E. (2012). “Carcere di Bollate: dove il detenuto non perde la sua dignità”. URL: <https://www.fondazioneveronesi.it/articoli/altre-news/carcere-di-bollate-dove-il-detenuto-non-perde-la-sua-dignita/>; (2015). “Nel carcere modello di Bollate ora c’è un ristorante aperto a tutti”. *Bergamo post*. URL: <http://www.bergamopost.it/pensare-positivo/nel-carcere-modello-di-bollate-ora-hanno-aperto-un-ristorante/>; Demurtas, A. (2013). “Bollate, il carcere dove le pene non si scontano a porte chiuse”. *Lettera 43*. URL: http://www.lettera43.it/fatti/bollate-il-carcere-dove-le-pene-non-si-scontano-a-porte-chiuse_4367585217.htm; Cavazzuti, N. (2013). “Bollate, nel carcere modello i detenuti offrono la cena a tutti”. *Oggi*. URL: <http://www.oggi.it/attualita/notizie/2013/05/31/bollate-nel-carcere-modello-i-detenuti-offrono-la-cena-a-tutti/>; Brambilla, M. (2013). “Il carcere modello senza suicidi”. *La Stampa*. URL: <http://www.lastampa.it/2013/06/21/italia/cronache/il-carcere-modello-senza-suicidi-salvati-dal-lavoro-mnNewIOHmdzquWiE1kWEN/pagina.html>

For some years now, different Ministries have been working together in this direction. For example, the one that it is called the 2-year Call for proposals (2018-2020) for projects focusing on social innovation of local social reintegration services for people leaving the penal system. This call is funded by the the Italian Interior Ministry and the beneficiary is the Ministry of Justice – Department of Juvenile and Community Justice.

The aim of this call is to create pathways of labour and social inclusion targeting particular categories of individuals at risk of deviance, as to say former prisoners, minors who are leaving or have already left the penal system, individuals belonging to mafia families, living in particular less developed Italian regions.

The projects must create social innovation models capable of developing integrated policies boosting the local service system as a whole, with the aim of strengthening social security, reducing the risks of recidivism and social exclusion of the categories of individuals targeted.

Projects must following three lines of action: a) establish and strengthen local networks in order to build an integrated system of intervention; b) develop new opportunities for reintegration into social and economic life through new synergies and collaborations; c) implement individualised pathways to help reintegrate target individuals into society and reduce the risk of recidivism.

The Call ties in with the Italian strategy for social and labour inclusion of individuals at risk of deviance, exploiting the potential offered by the social economy and encouraging these people to distance themselves from the “crime generating” environment of origin.

Projects must propose practical ways to develop integrate policies among social, health, labour, educational services, following a logic of strengthening the local service system as a whole.

The development of formal and informal networks is of utmost importance in promoting and facilitating good relationships amongst all social actors working to contribute to the personal growth and well-being of individuals at risk of deviance, to their reintegration, and in finding answers to their needs. In fact, social inclusion should not be left to sector-specific interventions, but must be obtained via a defined strategy, which includes integrated projects that focus on citizens who are beneficiaries of a bundle of services (social, health, education, public and private social welfare, labour inclusion, prevention from violence and crime, etc.).

To summarise, the keywords of this call are: social and labour reintegration, legality, integrated policies, innovation, formal and informal local networks, community, citizen security, reduction of recidivism, support and responsibility.

Even though this call is targeted exclusively at the phase after the execution of the penalty, with an allocated budget of only 1,6 million Euros, the importance of this should be stressed as part of the way forward to reduction of the rate of recidivism due to its value in terms of providing real individualised opportunities of social reintegration, above all with the support of already existing local services. It offers beneficiaries the opportunity to re-establish and improve local and social relations.

Moreover, this Call is important because the projects implemented should pay a “personalised attention” to the individuals, caring for them, trying to “make for them new experiences different from those of their past” and “make them closer to things, values, and decent environment which have a sense” (Cavana, 2020, p. 23), that they will discover, first, thanks to their relation with the staff. These projects should also cope with the “liberation shock” (SGEP, 2016, p. 74), giving the persons assistance even during the phase, often frustrating, of job searching and during the phase of the impact of a world maybe different from the one they left at the beginning of the execution of the penalty (especially if it was a long-term sentence).

The phase which begins immediately after the end of the execution of the penalty is of crucial significance regarding the options for the future. In fact, this is exactly the moment when individuals can clearly identify the opposition between the distancing from their previous experiences and recidivism.

For all these reasons, we hope that the results of these projects will be published after they are completed.

4. Some concluding remarks.

Reducing the rate of recidivism and promoting social and community (re)integration trajectories means supporting offenders to allow them to regain their place in society (Brunelle, Hamel, Carpentier, Dufour, Gadbois, 2020, p. 340).

It is through social reintegration programs, both inside and outside prisons, that the State, via the prison administration, tries to translate the dictates of article 27 of the Italian Constitution into practical terms, that is: “Punishment cannot consist in inhuman treatment and must aim at the rehabilitation of the convicted person”.

It would not be superfluous or even too late to reaffirm the importance of this article of the Constitution, because to continue to believe in the reintegrative function of the punishment, in the transformation in how individuals see themselves, and in their personal strength is the only key in order to reduce the risk of recidivism and, then, to protect the general public.

In this sense, Italy still has myriad tasks to accomplish so as to:

- better protect the fundamental rights and the dignity of those deprived of liberty;
- ensure the effectiveness of the pathway to social reintegration addressing the interventions towards supporting offenders’ specific needs and the development of pathways which take account of their individuality. Therefore, understanding of their difficulties to deal with legality and rules has to be the criterion to manage, without denying it, the complexity of the relationships established within the penitentiary system and it should provide the basis of the execution of the penalty so that punishment could be socially useful;
- provide for the necessary human and economic resources;
- invest in training of staff and in valorisation of the different professional profiles within prisons, probation services and local services. The effectiveness of training has to be based on models and tools that could help staff to answer any questions raised during carrying out everyday tasks (SGEP, 2016, p. 91);
- thoroughly analyse the phenomenon of recidivism through evaluation tools, reliable statistics, scientific research carried out in order to obtain useful information to help resolve emerging issues and, possibly, redefine operative practices;
- promote wider use of alternative measures to detention or community sanctions by identifying the good practices to continually reduce the risk of these rights to become “privileges” for a selected population and to pay particular attention to people with special needs, to the adoption of multidisciplinary pathways for social inclusion, to ensure education, vocational training, and inclusion the prisoners workforce, and to practice the involvement of families and of civil society.

It should not be forgotten that beyond modernisation, humanisation, and effectiveness, action must be taken to tackle the mentality, prejudices, stereotypes, and the organisational situation of prison establishments by integrating these actions in the context of a comprehensive reform of criminal policies and, consequently, of the law.

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