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Forensic psychiatric units in Italy from the 1960s to the present

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ABSTRACT

This article addresses the long-standing continuities in the history of the Italian forensic psychiatric units and views them as the result of conflicting forces, interests, mentalities and strategies at the cross-road of forensic psychiatry, psychiatry, prison and health services. It focuses on the period from the 1960s to the present and deals with, among other issues, the long-term impact of the anti-asylum movements and the on-going debate on the 'phasing out' of the forensic psychiatric units.

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1. Introduction

Since their establishment in the last decades of the 19th century, criminal insane asylums in Italy have acquired three different names — *manicomio criminale* (1870s–1945), *manicomio giudiziario* (1945–1975) and *ospedale psichiatrico giudiziario* (1975–present) — but theirs is, first and foremost, a history of long-standing continuities up to the present time.[1]

To begin with, there is a juridical continuity. The principles first established in the Zanardelli penal code (1889) and then in the Rocco penal code (1930) have remained the reference point for forensic psychiatric units throughout the whole period. There has been no change in the system of the 'double track' [*doppio binario*], that envisaged a separation between legal punishment and security measures. The latter continue to include internment in forensic institutions, decided upon by Courts of justice for offenders who cannot be held legally responsible [*non imputabilitá*] because they lack the capacity to 'understand or will', but who are considered 'socially dangerous' [*socialmente pericolosi*] — i.e. they have committed a crime and would probably commit in the future new acts that are defined as crimes according to the law. The interpretation of the latter concept has witnessed a significant shift in the decades we address here, for although it was originally the rule to 'presume' social dangerousness for all offenders with 'unsound mind', this presumption was first questioned by a series of sentences of the Constitutional Court in the early 1970s[2] and then abolished by art. 31 of Law 663 in 1986. However, the principle of social dangerousness in itself has remained central to the whole system of the security measures and to the related mechanisms of indeterminate sentencing, by which the minimum term established by the judge — from six month to ten years, in proportion to the maximum term prescribed for the committed crime — is subjected to yearly or semestral revisions of social dangerousness [*revisione della pericolositá sociale*]. On this base, the surveillance magistrate [*magistrato di sorveglianza*] can order the release of the inmate or the prorogation [*proroga*] of internment for a period of six months, after which a new revision of social dangerousness takes place.

Secondly, there is a history of administrative continuity. The criminal insane asylums have always remained under the prison administration and therefore, since 1922, under the Ministry of Justice.[3] As a result, these institutions have kept a fundamentally penal character. For although the Prison Acts (1931 and 1975) established that psychiatrists should act as governors and ensured a greater number of other medical staff were present, prison guards have formed the overwhelming majority of the personnel. Moreover, because of the connection between forensic psychiatric units and the prison system, for nearly a century the first have hosted prisoners under temporary psychiatric observation as well as people interned under security measures. As we shall see, this practice stopped in the mid-1970s, leading the total population of criminal insane asylums to drop from approximately 1800 to approximately 1100–1300 inmates and to remain stable thereafter.

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[1] See Mary Gibson's article in this volume. In the translation from Italian into English of the relative terms, the following criteria are followed in this article: "criminal insane asylums" and "forensic psychiatric units" indicate the institutions in general, with no specific reference to time; the expression "forensic psychiatric hospitals" and *ospedali psichiatrici giudiziari* refer to criminal insane asylums after the Prison Act of 1975. The security measure is always referred to as "security measure of the *ospedale psichiatrico giudiziario*". This article makes no reference to another forensic psychiatric institution, the *Casa di cura e custodia*, that host individuals who have been recognized by the judge as half-mentally ill (*semi-infermi di mente*) regarding the crime they have committed. The main facilities for such security measure are in a wing of the *ospedale psichiatrico giudiziario* in Reggio Emilia (for men) and in one wing of the female section of the prison of Florence (for women). For complete bibliographical references on studies the history of Italian psychiatry and forensic psychiatry, see Guarnieri (1991) and Fiorani (2010).

[2] The most important was sentence no. 1, 3rd January 1971 of the Constitutional Court.

[3] Prior to 1922 the Prison administration — *Direzione generale per gli istituti di prevenzione e di pena* — was subordinated to the Ministry of Interior.

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Thirdly, the very facilities of the criminal insane asylums have remained the same since their inception. With minor changes,[4] they were and are still located in Aversa (opened in 1876), Montelupo Fiorentino (1886), Reggio Emilia (1897), Naples (1922), Barcellona Pozzo di Gotto (1925), Castiglione delle Stiviere (1939) and Pozzuoli (1955).

Lastly, the gap between expert debates on criminal insane asylums and the real conditions of internment in these institutions has remained a wide one throughout the whole period. The latter have been repeatedly exposed, but have not fundamentally changed. Therefore, the restraint bed [*letto di contenzione*] has remained the symbol of the 'scandal' of the forensic psychiatric units throughout the whole period.

How are we to interpret the long-term continuity in the history of the criminal insane asylums? This article suggests the need to view it not as a manifestation of a lack of transformation per se, but as the result of conflicting forces, interests, mentalities and strategies. This calls for the study of the mutual relationships between the criminal insane asylums and other bordering institutions and for the analysis of discourses and practices of various collective actors. Here we focus on both aspects in the period from the 1960s to the present.

This essay also underlines the striking marginality of forensic psychiatric experts in the Italian debate on the *ospedali psichiatrici giudiziari* over the last five decades.[5]

In the early post-Second World War years, Italian forensic psychiatrists had consistently tried to expand their influence (Ancel, 1954; Nazionale & di Prevenzione e Difesa Sociale, 1957; De Vito, 2009; Di Tullio, 1971; Gramatica, 1961; Nuvolone, 1982). They had been especially inspired by the transnational movement of the *Défense Sociale Nouvelle*, which reasserted traditional principles of positivist criminology such as the centrality of the criminal's psychology rather than of his/her criminal acts. Consequently, they had lobbied for preventive policies against various kinds of crime, as well as for indeterminate sentences and for the introduction of criminological and psychiatric experts and tests in courts. Under the common ground of organizations such as the *Centro Nazionale di Prevenzione e Difesa Sociale* (CNPDS), leading criminologists such as Benigno Di Tullio and Filippo Gramatica, and jurists such as Pietro Nuvolone and Giuliano Vassalli had influenced reform projects of the penal code. Filippo Saporito, psychiatrist-governor of the *manicomio criminale* in Aversa since 1907, also participated in the debate in his last years. Together, they sought to bring into the adult penal and prison system those traditional principles of positivist criminology that had already been established in the juvenile prison sector and in the field of security measures.

However, the attempt failed, since the majority of jurists and politicians favored the principles of the classical school of penal law instead. So did a later attempt, initiated at the end of the 1950s by clinical criminologists and magistrates within the prison administration. In this case, limited financial resources and the post-1968 critique on prisons as a whole determined this failure. As a matter of fact, the 1975 prison reform introduced a pedagogical and psychological, rather than clinical and psychiatric, approach in the treatment of offenders. Moreover, recourse to probation and to other measures based on the observation of the personality of criminals applied exclusively to sentenced prisoners.

After this double defeat, the initiative of forensic experts remained limited. First, because since the 1960s the influence of experts as such came to play an even more marginal role in policy making in Italy, and one incomparably more marginal than in other Western European countries. Second, because forensic experts themselves retreated into the safer domain of forensic tests and avoided taking an active role in the debates concerning the reform of the forensic psychiatric hospitals, convinced as they were that there was no real need to change anything. As we will see, the psychiatrist-governors of the criminal insane asylums have formed a noticeable exception to this rule from the late 1970s onwards, while only the growing de-legitimization of the criminal insane asylums has forced other forensic psychiatrists to propose some alternatives in the 2000s. However, generally speaking, since the late 1960s the driving forces in this specific debate have been located outside forensic psychiatry, namely in health, mental health and prison policy.

These continuities have an important methodological consequence for this article. More than for any other period, they imply that the history of Italian forensic psychiatric units from the 1960s onward cannot be investigated in isolation, but ought to be understood in light of its constant interaction with those bordering fields. From this broader perspective, however, the continuities in the history of criminal insane asylums appear even more striking. For although a fundamental continuity also marked Italian prison and psychiatric policies for most of the 20th century, from the 1970s onwards prisons did experience significant transformations and psychiatric policies radically changed. Yet these proved incapable of influencing forensic psychiatry.

In the case of the prison administration, the 1975 Prison Act (Law 354/75) led to a significant departure from the mere retributive function attributed to punishment by previous legislation. However, it only superficially concerned the criminal insane asylums, whose name was changed into *ospedali psichiatrici giudiziari*, while their contents were unchanged.

A much deeper juridical, administrative and cultural transformation has concerned Italian psychiatry, started by the anti-asylum movements of the 1960s and 1970s (Babini, 2009; De Vito, 2010; Donnelly, 1992; Guarnieri, 2000). This process culminated with the passing of the 1978 Psychiatric Act (popularly known as *legge 180* and *legge Basaglia*) which, by forbidding further internment in mental hospitals and suggesting the preference for community services as alternatives, eventually led to the closure of all mental hospitals by the end of the 1990s. How are we then to explain that even the abolitionist stance of the anti-asylum movements and the *legge Basaglia* have made virtually no impact on the juridical, administrative and everyday reality of the criminal insane asylums?

The following section addresses this issue. The penultimate section digs into the paradoxical history of the forensic psychiatric units in the period from the 1980s until the early 2000s. The last section addresses the on-going process aimed to 'phase out' the *ospedali psichiatrici giudiziari* and poses the question whether this will actually lead to a fundamental break in the history of Italian forensic psychiatry.

2. The anti-asylum movement and the *ospedali psichiatrici giudiziari*

During the late 1960s and 1970s criminal insane asylums and attendant rules were questioned by the anti-asylum movement that became hegemonic within the psychiatric sector (e.g. Basaglia, 1968, 2001; Basaglia & Tranchina, 1979; Benigni, 1998; Bruzzone, 1979; Parrini, 1978, 1980; Piro, 1988; Slavich, 2003; Venturini, 1979). For all its plurality and contradictions, this movement succeeded in framing both the mental hospital and the forensic psychiatric units as 'institutions of violence' and social exclusion, opposed to individual liberation and democratic values. It did so by systematically exposing the contradiction between the everyday practices of internment and exclusion within the facilities on the one hand, and the expert discourse of treatment on the other, thus exposing the first and delegitimizing the latter in the eyes of psychiatric personnel, social movements and society as a whole.

That such a discourse proved successful regarding the mental hospitals was certainly connected with the general socio-political context of the 'Italian long-1968', which, in turn, it influenced. It also depended

[4] The *ospedale psichiatrico giudiziario* for women in Pozzuoli was closed in 1976. The *ospedale psichiatrico giudiziario* in Naples was transferred in the mid-2000s inside the prison of Naples-Secondigliano. The *ospedale psichiatrico giudiziario* in Reggio Emilia was transferred to a newly build facility in 2007, next to the new prison building inaugurated the same year.

[5] Reference works on forensic psychiatry are: Canepa (1974), Ferracuti (1987–1990), Mastronardi (1996), Volterra (2006) and Fornari (2008). The journals of the Prison administration — *Rassegna penitenziaria* (1952–1978), *Quaderni di criminologia clinica* (1958–1978) and *Rassegna penitenziaria e criminologica* (1979–) — have been especially important for the debates related to the *ospedali psichiatrici giudiziari*.

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