

## A source for the study of prisons in the Kingdom of León: the record of 1817

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### **ABSTRACT**

The paper consist of an analysis of prisoner's living conditions in the various types of prison which existed in the region during the Ancient Regime. The diversity of judicial systems in the region created the need for widely differing institutions, from small rural prisons to large-scale establishments created by the crown to transform vagabonds into productive individuals.

**Keywords:** Ancient Regime, Kingdom of León, prisons, prisoners, security, health.

### **RESUMEN**

En el trabajo se analizan las condiciones de vida de los encarcelados en los diferentes tipos de cárceles que operaban en las provincias de León y Zamora durante el Antiguo Régimen. La diversidad de los sistemas judiciales en la región introdujo la necesidad de instituciones muy diferentes, desde las pequeñas cárceles rurales a los grandes establecimientos creados por la corona para transformar vagabundos en individuos productivos.

**Palabras clave:** Antiguo Régimen, Reino de León, cárceles, prisioneros, seguridad, salubridad.

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## 1. INTRODUCTION

An investigation of the world of prisons constitutes one of the aspects relating to the marginalized fringes of society during the “Old Order”, the period of Spanish history roughly equating to the French Ancien Régime. Prison, as a place of temporary confinement, is one of the most obvious contexts in which to find the marginalized. Hence, consideration of its internal characteristics (such as the routine of daily life, facilities, or personnel) and of the living conditions of those immured within it is of great interest in allowing comprehension of the true dimensions of what is under study<sup>1</sup>. A spell in prison, from the end of the Middle Ages at least down until the triumph of Liberalism, was not seen as a form of punishment, except in the limited cases of minor offences or imprisonment for debt. The purpose of gaols was to hold prisoners<sup>2</sup> on remand during the period of their trials, and the law did not deem them criminals until a sentence against them was passed. The line of thought that arose from the eighteenth-century Enlightenment was to bring with it major innovations in the world of prisons, but not all were truly novelties, since earlier centuries had made advances on some points.

Regardless of the mission assigned to gaols under the Old Order, that is, whether they were used for remand or for punishment, the mere fact of being imprisoned within them implied being subjected to physical hardships (bad food, lack of hygiene, crowding in the bigger prisons) such that they could well be compared to serving a sentence. The aim of the present piece of work is to approach these questions in the light of a source of great interest: the report requested on 21 May 1817 by the administrative office for criminal courts of the Royal Chancellery of Valladolid from the judicial districts in the Provinces that were under its jurisdiction. On the basis of the information contained in it, an analysis will be undertaken of the characteristics of the network of gaols in the Provinces of León, Zamora and Toro<sup>3</sup>. In view of the small size of the population nuclei in these territories and their lack of economic dynamism, it is highly likely that the organizational patterns emerging from this report were by and large those current in most of the Kingdom of Castile for the whole period of the Old Order. Nevertheless, it must be kept in mind that the document reflects only public prisons, as in no instance did it record details of those belonging to institutions that had their own, for example, Church prisons reserved for the clergy.

In order to carry out the investigation ordered by Ferdinand VII to evaluate the state of the network of prisons, a form was drawn up, containing nine questions to be answered by the local authorities in each area. The form falls into three sections: one related to the

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<sup>1</sup> This piece of work forms part of a research project entitled *Pobreza, delincuencia y mecanismos de control social durante la Edad Moderna*, financiado por la Junta de Castilla y León. (Ref. LE001A10-1).

<sup>2</sup> See (SERNA, 1988, pp. 135-136). On the social significance of the shift from prison for remand to prison as a punishment, see (FOUCAULT, 1976, pp. 233 and 234).

<sup>3</sup> A.C.H.V. (Archives of the Chancellery of Valladolid), *Causas Secretas*, Boxes 0045.002 and 0046. 0003. The data for Zamora and Toro, which were included in the same report, have been treated here as a single grouping.

facilities for holding prisoners and was the longest, since this was the main point on which information was being gathered, a second involved prison governors, whilst the third and shortest inquired about prisoners. Thus, there was virtually no direct investigation of anything that related to social aspects. The first section requested information on the buildings, their size, the number of cells they contained, their safety and salubriousness and state of repair. The second asked for details of whether or not there was a prison governor, and if so what arrangements there were for paying this official's salary and if there was any governor's accommodation within the gaol. Finally, the only point relating to prisoners was a query about the source of funding to cover the cost of their food. All of this mass of information was to be sent to the chief magistrates of the judicial districts, so that it could be registered and a brief report based on it could be drawn up about their districts.

Because of the extensive information that they contain, these reports are without doubt of great use, but before any analysis of them is undertaken, certain details should be stressed. This survey was carried out just a short while after the end of the Peninsular War, so that the aftermath of that conflict is directly visible in the information recorded. It is not unusual to find statements from the magistrates that the prison had been destroyed by French troops, or that even minimum levels of security could not be guaranteed because of the requisitioning of material during the war<sup>4</sup>. Similarly, the political changeability of the period also contributed to the deterioration of prisons belonging to feudal lords, the sole establishments in existence in some places<sup>5</sup>. The unfortunate economic and demographic circumstances of the final decades of the eighteenth century and the early years of the nineteenth led prison installations to be in a parlous state<sup>6</sup>. Finally, when assessing the prison infrastructures, a further consideration to be taken into account in respect of the report is the inevitable subjectivity to which certain responses were liable, such as security, salubriousness or the exact sense of the terms "prison" or "governor". In fact, it turns out to be complicated to determine what exact criteria were employed to gauge a prison healthy or secure. For example, the authorities of Bermillo and Tamame in the Sayago district or those of the municipality of Laciana claimed that their gaols were secure, but immediately toned this categorical statement down by noting that security could not be guaranteed in the event of a need to hold prisoners who had committed serious offences, those subject to capital punishments or involved in rebellions, as these authorities specified.

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4 For instance, in the Leonese towns of Villamañán and Bembibre complaints were noted that the lamentable state of the gaol was due to fires deliberately set by Napoleon's troops.

5 The carrying out of the survey coincided with a point in time at which the nobility was losing to the Crown its rights to administer justice. The abolition of feudal lordships by the Provisional Parliament of Cadiz, followed by the ambiguous policies adopted by Ferdinand VII on his restoration to the throne, created a state of some confusion. (GARCÍA, 1977, p. 319), (HERNÁNDEZ, 1999, pp. 185 y ss.).

6 Although the historical context in which the report was drawn up had a considerable impact, it would appear that the state of decay of prison installations had affected earlier periods, too. This situation was an outcome of the passivity of the public authorities. (SERNA, 1988, p. 29).

## 2. THE NETWORK OF PRISONS IN THE PROVINCES OF LEÓN AND ZAMORA

The survey undertaken at the beginning of the nineteenth century by the Chancellery of Valladolid in order to assess the real state of the network of prisons was answered by 510 localities in the Provinces of León and of Zamora<sup>7</sup>. Specifically, 374 places in the former and 136 in the latter sent in responses. According to the magistrates, only 210 towns and villages, that is 41.2% of those responding, had facilities of the type in question. Of these, 101 were in León and 109 in Zamora. Thus, if the data are taken at face value, in León there were prison installations in just one out of every four places, while in Zamora the proportion was much higher. However, these quantitative data, just like the qualitative, need to be nuanced. For instance, while the majority of magistrates in Leonese towns, regardless of whether or not they had any facilities of the type concerned, sent in a completed questionnaire, those in Zamora fulfilled their obligation in a different fashion. In those places where there was no building specifically devoted to use as a prison, the local authorities did not feel it necessary to reply in writing to the survey; they merely informed the chief magistrates of this situation by word of mouth, as noted in the overall evaluation of their districts.

When it comes to evaluating the contents of responses, it must be stated from the start that the very word “prison” was used in a somewhat subjective way. For this reason, the answers given to this question in the survey form lead to truly contradictory situations, particularly in the Province of Zamora. Thus, for instance, the town of Fontanillas de Castro stated that it had no gaol, and that when it was necessary to hold prisoners they were kept in the council hall until it was possible to transfer them to San Cebrián. Such a solution must have been very frequent; according to the chief magistrate, it was the reason that some places considered that they had no need to reply to the questionnaire in writing. However, in turn, the great majority of places stating that they had prisons indicated that these were situated in the council hall, without there actually being any space in this building exclusively and specifically arranged to fulfil this function. Consequently, in the face of situations that seem to be identical, the assessments made by the magistrates differed. In some cases, it is possible to see that the availability of stocks or of shackles was the feature that inclined answers one way or the other, but even this criterion does not appear to have been fully conclusive. For example, neither Muelas nor Montamarta declared that they had any form of restraints for holding prisoners, but both did claim to have a prison. In contrast, Benegiles, Aspariegos and Villalube, despite having a pillory and manacles in the council hall, sent in a response that they had no prison.

Among the places stating that they had prison installations, at least three groups should be distinguished. This hierarchical classification corresponds to their size and importance, arising to some extent from the sort of settlement in which they were situated,

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<sup>7</sup> As noted above, the Province of Toro was also included in this report.

but particularly from the needs which they had to cover. At the highest level would be prison facilities in larger towns and cities, which were the largest, those which in theory enjoyed the greatest security, and those where all prisoners who had committed crimes considered as serious would be sent. This refers to the prisons in Leon, Zamora, Astorga or Toro. The second group would include facilities located in towns and settlements that acted as the administrative centres of municipal, legal, or police districts, and as such had some role in administration. Some of these performed functions that to some degree can be compared with the purposes fulfilled by installations in the first category. This was the case for those located in towns that were the endpoints of stages of cross-country routes and thus had to hold chain gangs of vagabonds or convicted criminals that were being taken along them. Finally, the third group, certainly the largest in numerical terms, was made up of all the establishments scattered in small localities in rural contexts, almost all sited in small multipurpose buildings.

### **3. SECURITY AND HEALTHINESS OF PRISONS**

Other questions addressed by the 1817 survey involved the security and health conditions of prisons. Some places responded very clearly on this point, responding categorically that their gaols were not secure. This is what happened, among many other localities, in the case of Fermoselle, where it was noted that prisoners had escaped through holes that they made in the walls. The same had occurred in Toro, since all the inner, outer and partition walls were very flimsy and all the beams rotten and weak. There were also places that stated that their installations were only moderately secure, such, for instance, as Alaejos. In that location, the isolation cell did provide reasonable security, but the remainder of the building was in a ruinous condition. Nevertheless, the majority of the responses from local authorities were highly subjective or even contradictory<sup>8</sup>. In not a few instances, after answering that their building could be considered secure, they stressed the need for major reconstruction work, or at the very least for the purchase of basic prison equipment so as to avoid escapes. This was what applied, among other places, to Valderrueda and Fadón. These felt that their prison installations were secure, and yet the former indicated that it was short of chains and padlocks, and lacked a pillory or stocks, whilst the latter noted that the building's roof was full of holes. Thus, if only the initial response given by the local magistrates were taken into account, the statistical results that would emerge would evidently overestimate the percentage of gaols where security was genuinely good.

Furthermore, it should also be kept in mind that the question of security was a relative matter, since the majority of magistrates felt that their prisons were secure, just as

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<sup>8</sup> For example, although the form submitted by Vega de Espinareda had nothing in it that would lead to any suspicion that the prison installations were in a poor state, the report drawn up by the chief magistrate of Ponferrada in 1817 included its gaol, together with those of Villafranca del Bierzo, Borrenes and Vega de Valcarce amongst the cases in which it was necessary to undertake major repairs. *A.CH.V., Causas Secretas*, Box 45.002.

long as they were not used for holding dangerous inmates. For example, Abelgas de Luna was happy with its facility, justifying this by noting that up until that time it had not been used to hold anybody guilty of serious crimes or of banditry. In Prianza the installations were likewise adequate, because whole years went by without any prisoners being confined in them. The same attitude was taken in respect of Pardamaza, Caldas de Luna and Santa Marina de Torre, of almost all the facilities in the district of Zamora Province known as Sayago<sup>9</sup>, and of San Pedro de la Nave and Jambrina, where the use of prison installations was limited to holding local people on remand or serving minor sentences.

A further highly important matter relating to prisons, crucially affecting those confined in them, was the question of their salubrity. Once again, there is a problem of the subjectivity which shaped the responses recorded by the survey. One vital point relating to this topic was the level of occupation, an essential feature in city establishments or those in places which, through being administrative centres for municipal districts or the endpoints of stages on transportation routes, had to house large numbers of prisoners.

It is difficult to get to grips with the exact interpretation of the term “healthy” in the mentality of the period. To judge by the answers analysed, it would seem that the fundamental parameters taken into consideration in determining the level of salubrity of a prison were the ventilation of cells, damp and temperatures. In Cabañas Raras, in the Balboa demesne, at the Montes Abbey, in Venialbo and Fermoselle, these last two in Zamora Province, the others in the Province of Leon, damp was recorded as the main cause of the bad conditions suffered by inmates. This same problem together with a lack of ventilation was noted elsewhere, for instance at Salas de los Barrios. In general, living conditions must have been very poor, the only thing keeping the prisoners from suffering grave consequences being the short period that they spent in the facilities. This was noted at Monfarracinos, where no definite answer was given to the question, it being stated that it was not possible to know if the gaol was healthy or not, as prisoners stayed in it for only a day or two, then were sent on to the provincial capital.

However, prisons in cities and large towns did not guarantee healthy conditions for inmates, either. In fact, Leon City’s facility must have provided conditions as dubious as the structural solidity of the building itself. In 1817 its holding cells were described as unhealthy because they lacked ventilation and were in a humid location lower than the city and the streets surrounding it. The same conditions affected Toro, where holding and isolation cells lacked ventilation, and where even outdoors the inmates could find no comfort, as the courtyards were very humid. As the prison in Zamora had been built relatively recently, it suffered from no drawbacks of this sort, and reported that its accommodation was healthy. The respondents representing Astorga stated that their prison enjoyed healthy conditions. It must be supposed that this was true when the facility was

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<sup>9</sup> For instance, Pereruela, la Cerecina and Bermillo stated that their prisons were only secure enough to hold minor offenders. *A.CH.V., Causas Secretas*, Box 46.0003.

in perfect repair, since when the report was prepared, to judge by the description given next, which described windows with missing panes and roofs with holes in them, cold and damp must have permeated into every part of the building.

In certain cases, such as the City of Leon, as happened with security also, this was not just a situation arising from temporary adverse circumstances, as throughout the previous two centuries there was abundant documentation recording the poor conditions of hygiene and health that affected the building. In 1659, as an outcome of the imprisonment of three Leonese municipal councillors, a report was drawn up describing deplorable conditions. The testimony is sufficiently graphic to allow a clear idea to be formed of the surroundings in which these prisoners found themselves. These must have been even worse in the case of the lower classes, as the notables involved enjoyed certain advantages thanks to their wealth and social influence<sup>10</sup>, besides receiving the food and clothing that they needed from their families.

From all the testimony brought together in this documentation, it can be inferred that life in prison for inmates of the lowest classes must have been so harsh that it is difficult to find words to describe it<sup>11</sup>. However, despite this deplorable situation, for a good few people at some points in time a prison term was the only thing that would ensure their survival<sup>12</sup>.

#### 4. INMATES

As is well known, under the Old Order prisoners had to pay for their own maintenance. This led those from the lower classes into truly complicated situations, as imprisonment not only ate away at what little resources they had, but also prevented them from undertaking employment. This state of affairs was worsened by the fact that the amount of time spent in prison tended to be quite lengthy, so that even those who were reasonably well off on entering could end up by being in considerable need<sup>13</sup>. Sooner or later, the great majority came to depend on charity for their very survival.

At the start of the nineteenth century, the prisons in the Provinces of Leon and Zamora used three techniques for providing food for poor prisoners: dividing maintenance costs among local residents, resorting to requests for alms, or paying for food from municipal

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<sup>10</sup>This discriminatory treatment of prisoners was borne witness to some years later by the wife of the Prison Governor of Toro. This woman met the traveller George Borrow in Valladolid and told him that they treated prisoners very well, at least when they were gentlefolk. Others had nothing but their poverty, and in those cases nothing could be done (BORROW, 1921, pp. 67-68).

<sup>11</sup>With regard to the living conditions in prisons in the sixteenth and seventeenth centuries, see (ROLDÁN, 1988, pp. 46-48); (FRAILE, 1987, pp. 103 et seqq).

<sup>12</sup>When economic difficulties were acute, those who were most energetic in protesting were members of the poorest social classes, since they claimed that even in prisons living conditions were more tolerable than outside. (MELOSSI and Massimo PAVARINI, 1987, p. 78).

<sup>13</sup>To be in gaol was effectively the same as being obliged to pay a fee for board and lodging. (VILLALBA, 1993, p. 216). A spell in prison was for many a ticket to poverty. (OLIVER, 2001, p. 201). On the denunciation by members of the Enlightenment of such delays in the judicial process, see (ALONSO, 1982, p. 325).

funds. This last option was the least frequent, as in order to ensure it was viable there was a need for the urban or rural district involved to have a steady source of income. Most of the places that stated that they acted in this way were situated in the mountainous areas of Leon Province, as in that zone districts received larger or smaller annual payments deriving from the leasing of summer pastures to transhumant sheep-farmers. This is what happened in Abelgas de Luna, Cofiñal, Pinos and San Emiliano. Nonetheless, the other two techniques for feeding prisoners were commoner. In places like Figueruela de Sayago, San Vicente del Barco, Mogatar, Perilla or Montamarta, the response was that inmates' food had to be provided by their families, while in the case of impoverished prisoners or those from distant parts, who had no local connections, the costs were borne by the places' residents. In Fadón it was pointed out that the only food that had to be bought was for prisoners who were not locals, passing through on their way to the provincial capital, for if any resident were ever arrested for a while there would never fail to be God's charity among their neighbours. Overall, it must be kept in mind that the great majority of gaols were small in size and were very infrequently occupied. When they were, those imprisoned were usually locals and so finding food for these detainees would not represent any serious problem for local legal authorities. However, difficulties could arise when they had to deal with chain gangs of prisoners in transit, as their numbers could be quite large. In Fresno el Viejo, both situations could be faced, and the solution was described as follows: because most were from the town, their maintenance could be paid for with their own money or their families', whilst for those in transit to Salamanca or Valladolid the legal authorities would request contributions through the town. When it comes to details of what food was given to inmates, information is extremely scarce. The most detailed responses came from Roales and Grajal de Campos. In the first of these places they were provided with bread and bacon thanks to the charity of local residents; in the second they received half a pound of vegetable stew twice daily, this comprising broad beans, haricot beans, chick peas, lentils or peas, together with half a loaf of bread daily.

Feeding inmates could be a considerable problem, so some localities sought to free themselves of this obligation by sending them to the prisons in cities or large towns, alleging that their own gaols were not secure. This was pointed out by the authorities in the city of Toro. They added that this conduct imposed real difficulties on them, because very often the towns from which the prisoners came did not send any food or money for maintaining these inmates, despite their obligation to do so. In the prison of that city no rations were given to the prisoners, but a sum of one and a half or two *reals* was provided each day<sup>14</sup> for their maintenance. This allocation was rounded out with whatever they might get by begging through the bars of their cells and with any charitable donations received from other sources.

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<sup>14</sup> This sum could vary, since if any money was in fact transferred, the amount was fixed by the legal authorities of the town from which prisoners came. A *real* was a small silver coin, the size and weight of which corresponded roughly at different times to those of a threepence, of a groat, or of a sixpence in the contemporaneous English coinage.



In turn, the system by which towns had to pay for the food of the individuals they imprisoned, whether in their own gaols or in those of places to which they were sent, could be seen as something of a drawback, as it might make magistrates reticent about sending people to gaol. This conduct was referred to at Zamora. In that city, in an attempt to remedy this failing<sup>15</sup>, they did not ask for any money from the local magistrates of the places from which prisoners came, but rather assumed their maintenance costs themselves. When funds ran out, whether these derived from fines or from the budget assigned, assistance was sought from all the towns and villages in the judicial district. Inmates were given one pound of bread and twenty-eight *maravedis* (around four-fifths of a *real*) each day.

In the field of philanthropy, both individuals and church institutions performed a major social function. For example, in Leon City all poor prisoners, without any exclusion rules applying<sup>16</sup>, received both municipal assistance and alms from the Bishop, from religious communities or from charitable individuals<sup>17</sup>. All of these types of assistance were channelled through the "Protector of the Poor"<sup>18</sup>. This post was held by a councillor nominated on a yearly basis by the city council, and its incumbent had not only to see to remedying any material necessities that they might suffer, but also to keep them informed about the legal proceedings which led them to be imprisoned<sup>19</sup>. In Toro, similar functions were performed by the councillor appointed "Protective Commissioner for the Prison", who also had the duty of supervising the progress of cases involving prisoners, so as to avoid delay in sentencing.

In respect of individuals' charitable donations for poor prisoners, one path through which they were channelled was via religious brotherhoods, some of which had this sort of activity as their chief priority<sup>20</sup>. This was the case in Zamora for the Brotherhood of Our Lady of Mercy and Poor Prisoners or in Ponferrada for the Brotherhood of Succour to Poor Prisoners in Gaol. This latter was founded in 1568 with the aim of relieving the needs of prison inmates<sup>21</sup>. Members of this brotherhood took turns to collect donations twice a week, or more frequently if necessary, using the funds they gathered to prepare food which was provided to prisoners twice daily. Another field of action of this brotherhood involved trying to speed up inmates' trials, so that to some extent it fulfilled a function similar to that of the Portuguese Charities of Mercy in their prison assistance work<sup>22</sup>.

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15 The intention was to avoid over-burdening the residents of the places where the prisoners originated, so as to avoid any reluctance in imprisoning them, especially in instances of theft.

16 There were restrictive criteria for assigning such aid in some other places, for instance determining which inmates were assigned charity in the Portuguese city of Coimbra. (LOPES, 1997, p. 569).

17 In respect of some of the types of assistance received by prisoners in Zamora in the Early Modern Period, see (LORENZO, 1991, p. 639).

18 Similar officials, with varying names, but practically identical duties, were to be found in other cities. For Seville, see (GACTO, 1978, pp. 11-46).

19 A.H.M.L. Box 75.

20 Similar associations were to be found in Toledo and Cordova. (BAZÁN, 2005, pp. 313-315). These associations had a double remit: to practise generosity and to modify the moral behaviour of prisoners. (TRINIDAD, 1991, p. 126).

21 In the work by (SANZ, 2003) it is noted that old prisons had associated with them a good number of charitable institutions which had arisen in various cities and towns during the Modern Period with the aim of protecting and helping inmates.

22 (ESCOCARD, 1998, pp. 65-81); (LOBO, 1998, pp. 83-114).

In addition, other brotherhoods, though not having prisoners as the central target of their activities, did channel some aid to them. For instance, the regulations of the Brotherhood of Our Lady of Anguish and Solitude in Leon included a requirement to provide prison inmates with a modest meal on the three great religious feast days of Epiphany, Easter and Whitsun, this being served to them by brotherhood officials<sup>23</sup>. There were some other religious charities which added aiding poor prisoners to their other charitable works, an instance being the charity founded by the Reverend Fernando González de la Huerga, priest of San Cristóbal de las Entreviñas<sup>24</sup>.

## 5. CONCLUSIONS

At the beginning of the nineteenth century, the prisons in operation in the Provinces of Leon and Zamora in general did not meet the conditions needed to fulfil their purpose efficiently. A consequence was a steady stream of escapes from these establishments. It is possible that in a good few instances this ruinous state was a direct outcome of the Peninsular War, while in others, the majority, this conflict would merely have worsened what had already been true for some considerable time past. The crux of the matter was the age of the buildings and the lack of funds for repairing them. Nevertheless, particularly in rural areas, it was not so much a problem of lack of funds, since local council regulations stipulated an obligation for residents to participate in public works, so money was not needed to pay a labour force. Rather, it was a question of apathy arising from the fact that gaols were rarely used. Logically, this parlous state affected both infrastructures and living conditions, which for various reasons had barely been touched by the heightened interest in hygiene of the Enlightenment.

Moreover, despite all the proposals that had been put forward during the Modern Period for improving inmates' conditions, everything seems to point to their having had only a very limited impact. According to council minutes, some prison governors continued to exercise arbitrary authority, whilst others failed to carry out their duties and had meals and drinks with inmates. In turn, the system used to meet the prisoner's need for food was harmful not just for them, but for society as a whole, as it was extremely likely to encourage local magistrates to soft-pedal in their activities.

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<sup>23</sup> The regulations also showed special consideration for them on Christmas Eve and New Year's Day. A.H.M.L. Box 729.

<sup>24</sup> A.H.D.Z. 105/28.

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