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CHAPTER 2

Prisons and Marginalisation in Nineteenth-century Egypt

Rudolph Peters

Al-sijn li'l-jad'an

[Prisons are for real men]

Egyptian saying

One of society's most forceful instruments of exclusion and marginalisation is its penal system. Punishment of offenders may result in definitive removal from society, either by physical elimination, as in the case of the death penalty, or by permanent incarceration, as in the case of life-long imprisonment or deportation. Punishment may also consist in temporary removal from society. But this may have a more lasting effect: stigmatisation attached to having served a prison sentence may lead to the social or moral exclusion or marginalisation of released inmates. Corporal punishment, when it does not leave permanent visible traces, as in the case of amputation of parts of the body, does not have such an impact. The victim remains in his social environment and, unless the offence for which the victim was punished was considered a particularly heinous one by his community, the penalty will not have an enduring effect on his position in society.

This chapter tries to examine the impact, in terms of stigmatisation, social exclusion and marginalisation, of the Egyptian prison system on its inmates during the nineteenth century, before the British occupation of 1882. I will argue that

prison sentences had no strong stigmatising effect and that released prisoners were not marginalised socially. It is my assumption that the degree of marginalisation or social exclusion of ex-convicts is related to at least five factors: the knowledge in the local community of the ex-convict's background; the attitude of the population at large towards the offences for which the inmates have been convicted; the homogeneity of the prison population; the relationship between the actual duration of imprisonment and the seriousness of the offence for which the inmate has been convicted; the degree of isolation to which the inmates are subjected.

The first factor is of course a necessary condition for stigmatisation and exclusion. If a released prisoner can keep his past secret, there is no social exclusion at all. Furthermore, it is obvious that stigmatisation depends on the attitude of the ex-convict's social environment towards the legal system. If many people are in prison for offences that are regarded as criminal by the state and the ruling elite but not by the majority of the population, prison sentences lose their stigmatising effect. Another factor with an impact on marginalisation of ex-convicts is the homogeneity of the prison population. If it is public knowledge that among prison inmates there are not only convicted offenders but also political prisoners or those detained for their debts, the social stigmatisation of released prisoners is less severe. The same applies to convicts who serve their sentences not in penitentiaries but in institutions such as the army or factories not primarily intended for punishment and imprisonment. Another mitigating factor on stigmatisation is the presence in prison of members of the middle or higher classes. Stigmatisation is probably greater if all prisoners belong to the lower classes and less if there are a considerable number of prisoners from other social strata as well. In addition, I would argue that arbitrariness in the penal system also works against the stigmatisation of ex-convicts. If the length of imprisonment is not proportionate to the seriousness of the offence, but more or less arbitrary, the lengths of prison terms is not a reliable measure for the gravity of the crime. Of course this might also work the other way, in that persons who have served short sentences might also have been suspected of committing

serious crimes. However, in combination with the other factors, I am convinced that the mitigating effect is stronger. A final but important factor is the degree of isolation in which the inmates are kept. If inmates have the possibility of remaining in contact with their families and relatives or others outside the prison system, it is plausible that, after their release, it proves easier for them to be re-integrated into society.

Little is known about the Egyptian system of judicial punishment before the British occupation.¹ To the best of my knowledge, Egypt lacks the richness of sources on the subject found in most Western European countries, including official and press reports, diaries and literary texts that add liveliness and detail to institutional history. This is particularly true of sources reflecting the attitude of society towards released prisoners. In the absence of such first-hand information my conclusions are by necessity inferential and to some extent speculative.

The main sources for this chapter are official documents, located in the Egyptian National Archives (Dar al-Watha'iq al-Qawmiyya, henceforth DWQ). They consist in the first place of criminal codes and related decrees and documents. I have also made use of the records of criminal cases, especially the records of trials of prison guards for neglect of duty, and of five registers (the only ones that could be traced) listing the inmates of the Alexandria Prison for the years 1847-52 and 1861-9. In addition, I went through some years of the official journal, *al-Waqa'i' al-Misriyya*, which published summaries of the trials in the khedival or Viceregal Council (Divan-i Hidiwi). All this is supplemented by the scarce information that can be culled from the publications of contemporary Western observers.

Imprisonment in Nineteenth-century Egypt

In 1855, a certain Muhammad 'Ali was arrested on a charge of theft. Goods that he was accused of having stolen were impounded from his home. The victim, Muhammad Rif'at Efendi, living in the Cairo Bab al-Khalq quarter, accused him of having stolen money and goods from his home with a total value of about 18,000 piastres. Muhammad 'Ali declared that the

victim's wife, with whom he claimed to have spent a day and a night, had given him a sum of money of her own free will, part of which he had spent on the goods that were impounded in his quarters. The price of the goods was recovered from the seller and was returned to Muhammad Rif'at Efendi, together with the rest of the money that in the meantime had been found in Muhammad 'Ali's lodgings. At this point the suspect admitted that he had in fact stolen the money. When his criminal record was examined, it appeared that he had been arrested twice before, once for theft of a camel – for which he later was found innocent – and once for pretending to be a police spy (*bassas*). Both times he had managed to escape from custody. Taking this into consideration, he was sentenced to life-long forced labour in the fortifications of al-Qanatir al-Khayriyya (also called al-Qal'a al-Sa'idiyya). Later, he was transferred to the Alexandria Dockyards Prison (Liman or Tarsanat Iskandariyya). In 1858, he was drafted into the army to serve the remainder of his sentence as a soldier. However, while serving in the military, he committed another theft and was sent back to the Alexandria Dockyards Prison. When the amnesty of March 1861 was announced, he was released from the Alexandria prison. However, being regarded as incorrigible (*shaqi*) he was not set free but transferred to the Department of Industry (Diwan al-Waburat wa-l-'Amaliyyat, also referred to as Diwan al-Fabriqat wa-l-'Amaliyyat) as forced labour. From there he escaped again. Upon being discovered by a police spy, he threatened the latter with a knife and wounded a person who came to the policeman's help. But he could not save his skin and was apprehended. On 16 September 1861, the Cairo Police Department sent him to the Alexandria Dockyards Prison in order to complete his life sentence. However, when Khedive Isma'il succeeded Sa'id, he reversed this decision and instructed the Majlis al-Ahkam to review the cases of inmates of the Alexandria Dockyards Prison with life sentences or unspecified terms. On 19 November 1866, his sentence was commuted to five years forced labour in the Alexandria Prison. However, since he was classified as belonging to the 'group of evildoers' (*zumrat al-ashrar*) mentioned in the Qanun al-Sultani, the penal code of 1852–3, he was not to be released after this period unless it had become clear that he had become honest

and of good behaviour and he could find a relative willing to be his guarantor (*damin*).²

My first reaction upon reading this account was regret that this jailbird did not write his memoirs. He was familiar with most of the larger prisons in Egypt and the story of his life behind bars would be invaluable for the penal history of Egypt. The account as we have it is representative of the type of sources we have at our disposal. They are factual and written from an official point of view. Their value lies in the information they impart regarding the functioning of the penal institutions, but they do not give information about the experiences of the inmates.

As illustrated by Muhammad 'Ali's story, imprisonment was the principal form of punishment in nineteenth-century Egypt. The Egyptian penal system, like all nineteenth-century systems, rested on three pillars: capital punishment, corporal punishment (flogging or caning) and imprisonment, usually combined with hard labour and sometimes with deportation. Capital punishment had become rare in the second half of the nineteenth century. Travellers report that the number of executions decreased during Mehmed 'Ali's reign because of greater public security brought about by a more efficient police force.³ This trend continued until the British occupation.⁴ The number of capital offences was small. With very few exceptions,⁵ capital punishment was only enforced on the strength of a sharia sentence of retribution (*qisas*) for homicide, pronounced by the qadi and approved by the Khedive. Corporal punishment meant flogging (with a maximum of 600 stripes⁶), which was a form of punishment frequently applied for petty crime, especially in the countryside. In 1861 it was abolished and replaced with detention (*habs*).⁷ By then, imprisonment had practically become the only form of punishment.

The story of Muhammad 'Ali is informative on several characteristic traits of the Egyptian prison system in the nineteenth century. In the first place, the account shows that the term specified in a sentence could be subject to all kinds of changes. The period one actually spent in prison was often shorter than the time specified in the sentence, mainly as a consequence of general amnesties, but also as a result of escapes. Prison security was not very tight and escapes were

frequent in spite of the severe punishments to which guards were sentenced if they let prisoners escape. Usually they had to serve the remaining part of the escaped inmate's term. Secondly, it becomes evident from the account that there were a variety of penal institutions and that, in addition, convicts were sometimes sent to the army instead of completing their sentences in penal institutions. Finally it demonstrates that attempts were made, although not very consistently, to single out habitual offenders and keep them permanently imprisoned. In what follows I will discuss these and other aspects of the Egyptian prison system as it evolved between 1830 and 1882. I will restrict myself to imprisonment served in Egyptian jails. Deportation and imprisonment in the Sudan was also part of the penal system and applied as a punishment for serious offences. However, due to the limited availability of the archival sources, we know very little about the conditions of the Sudanese labour prisons.⁸

Attitude of the Public towards the Penal System

The attitude of Egyptians towards the penal system was ambivalent. On the one hand they expected the state to provide a minimum level of security and law and order by means of the penal system, and appealed to it themselves as one of the available means to secure their rights. On the other hand, their attitude must have been influenced by the widespread mistrust of the government. The relationship between the state and its rural subjects had come to be reduced to the collection of men for military service and *corvée* and of taxes. The idea that the state ought to protect the interests of the entire population was not common in nineteenth-century Egypt. Most Egyptians saw clearly that the state mainly served the interests of the Turkish elite. This awareness affected the way they looked at criminal justice.

Of course, people would accept it when 'ordinary' criminals like thieves and murderers were punished. However, many of the offences listed in the penal codes and punished by the state were based on norms not shared by ordinary Egyptians. Some of these, they realised, only served the interests of the state and the

ruling group; others patently conflicted with their established customs, such as those connected with honour or feuding. Violations of such norms were not looked upon as moral transgressions, and their punishment was regarded as a tool of oppression or exploitation by the state. Those sentenced for tax evasion, draft-dodging, desertion, sheltering deserters, escaping *corvée*, and official negligence, were certainly not seen as criminals, but rather as victims of the arbitrariness and oppression of the state. The same would be true for those who had killed in the context of a feud or in order to vindicate the honour of one's family or tribe.

Inmates held for 'official' or 'state' offences (as opposed to offences rooted in norms shared by the entire population) often formed a considerable segment of the prison population. The register of admissions of the Alexandria Dockyards Prison for 1861 is a case in point. Of the 401 persons who entered the prison between 30 March and 21 May 1861 and between 1 August and 3 September 1861, 170 were imprisoned for desertion and another 26 for military offences such as absence without leave, malingering and insubordination, and 10 for offences related to the draft.⁹

Modes of Imprisonment

From the texts of the successive penal codes it is not possible to reconstruct the penal system that was operative in nineteenth-century Egypt. The terminology used in these laws was copied from the foreign models that had inspired these codes, and did not necessarily apply to the Egyptian system.¹⁰ This is especially true of articles 123 to 194 of the *Qanun al-Muntakhab* (henceforth QM), enacted in 1844, that were translated from the French Penal Code of 1810 and of the first three chapters of the *Qanun al-Sultani* (henceforth QS) of 1852-3 that corresponded to the Ottoman Penal Code of 1850. Moreover, the terminology was not uniform: sometimes the same term is used for different modalities of imprisonment, whereas in other instances the same category is referred to by various terms. In order to reconstruct the prison system, we have to rely in the first place on the earliest Egyptian legislation, that was

not inspired by foreign examples (i.e. the Penal Code of 1829, the Qanun al-Filaha of 1830 and parts of the QM) and on court records. The essential traits of the system hardly changed during our period. A first point we have to realise is that convicted offenders, if they were fit for military service, were often sent to the army by way of punishment, instead of serving a sentence of hard labour in prison.¹¹

Imprisonment consisted of simple detention, which could be made more severe by putting the prisoner on bread and water or in solitary confinement (both for a period not exceeding three weeks),¹² forced labour in regional or national prisons, or forced labour with deportation to the Sudan. In the archival material, I have not found other categories, although the names and localities sometimes change. Women would not be deported to the Sudan and were held in special women's prisons.

Simple detention meant that convicts were imprisoned in the police prisons in the big cities, the prison in the Cairo citadel and prisons in the various provincial capitals. Convicts sentenced to forced labour in their own region were also sent to the provincial prisons.¹³ At the national level there was the Alexandria Dockyards Prison that continued to function throughout our period and fell under the authority of the Department of the Navy (Diwan al-Bahriyya). From about 1853 until the early 1860s there was another national labour prison near the fortifications at al-Qanatir al-Khayriyya (called al-Qal'a al-Sa'idiyya), which in 1857 was transferred from the Ministry of War (Diwan al-Jihadiyya) to the Department of Industry.¹⁴ In the early 1850s, various industrial establishments (*tarsana*), such as the one in Bulaq,¹⁵ employed convicts. From the mid-1850s until late 1864, the judicial councils sentenced many offenders to be put at the disposal of the Department of Industry. They must have formed a labour pool for work in various state factories.¹⁶ Prisons fell under the authority of several departments, such as the local police forces, the governorates (*mudiriyya*, *muhafaza*), the Ministry of War, the Department of the Navy and the Department of Industry. The administrative organisation of the prison system was therefore diverse. A small measure of uniformity was introduced by the appointment of a special inspector of prisons in February 1865, with the task of

checking the conditions of the prisons and the punctual release of prisoners.¹⁷

The local prisons were relatively small, and held a few dozen prisoners. In 1856 the two principal Cairo jails – the police jail and the jail of the governorate – held 81 and 32 prisoners, respectively.¹⁸ The provincial prisons contained comparable numbers of prisoners. The large prisons were the Alexandria Dockyards Prison and, between 1853 and the early 1860s, the Qal'a al-Sa'idiyya. On the basis of the prison registers and other records it is possible to make a rough calculation of the number of their inmates. In 1845, a French traveller estimated the total number of prisoners in Cairo and Alexandria together at 300.¹⁹ The Alexandria Dockyards Prison housed in the late 1840 around 450, and in the early 1860s between 250 and 650.²⁰ The Qal'a al-Sa'idiyya was a larger penitentiary. In October–November 1855, it housed some 1100–1200 prisoners, half of them Bedouin, and the wardens complained repeatedly that they did not have sufficient personnel for guard duties.²¹ In August 1859, about 100 prisoners were detained in the Cairo police jail, among them those held for debt.²²

Prison Population

Not all prison inmates were convicted criminals. Most prisons also held suspects whose cases were still under investigation. That was standard procedure in the local prisons, but occasionally, in complicated cases involving many people, all suspects, witnesses and those otherwise involved would be sent to the Alexandria Prison. In 1861, 67 villagers were detained there in connection with one and the same case: the killing of an unknown person from outside the village. Of these, 41 were released within five months for lack of evidence.²³ Another category of inmates were persons imprisoned for debt. As in Dickensian England, imprisonment for debt was common. Under Islamic law it is the only means a creditor has to enforce payment by his debtor.²⁴ It seems that it was not too difficult to have a person imprisoned on these grounds, until in February 1869 a decree was issued stipulating that a person could only be detained for debt if the debt was proven and the creditor was

willing and capable of paying for the prisoner's maintenance.²⁵ The last category was political prisoners. These were mainly Bedouin.²⁶ It is sometimes difficult to distinguish between Bedouin who were imprisoned for robbery and those who had been taken hostage as a guarantee of the good behaviour of their tribes. I regularly came across khedival orders issued to prison commanders instructing them to submit lists of Bedouin inmates and to specify whether they had been imprisoned for a certain term or without a term.²⁷ During certain periods, for example in the 1860s, the Alexandria Dockyards Prison also served as a place of imprisonment for foreigners who had been sentenced to imprisonment by their consular courts. As a rule, they served short sentences of only a few weeks.²⁸ From the 1850s, attempts were made to separate the various categories of prisoner.²⁹ It is not clear how successful these attempts were.

One of the characteristics of the Egyptian administration of justice was that the trials of criminal cases did not focus on individual defendants, but rather on the case itself. All those involved in a given case, however remotely, were objects of investigation in order to establish whether they had been negligent in preventing the offence. In connection with serious crimes such as murder or robbery, village shaykhs and village guards would be on trial too for neglect of duty, and were often given sentences of several months or even years of hard labour. This was already usual during Mehmed 'Ali Pasha's reign.³⁰

The Isolation of Inmates from Society

In August 1848, a certain Umm Shahata from Suez informed the Cairo police that two *bintu* (a gold coin) and some gold and silver rings had been stolen from her. She had come from Suez to visit her brother and her sister's husband, who were held in the police prison, and to give them bread and money. She had wrapped the money and the rings, which she intended to sell, in a handkerchief and put them in a basket. While sitting with other women near the gate of the police prison and distributing bread to her relatives and other prisoners, she was robbed of her valuables.³¹

As this story shows, prisoners, especially those in local prisons, could receive frequent visits. The main aims of imprisonment were basic – control of the prisoner's movements and, in the case of forced labour, harnessing his capacity for work. The restrictions put on prisoners did not go beyond these two direct aims. I have not found indications of the existence of an explicit philosophy of punishment – other than the general notions of retribution and deterrence – that resulted in a specific penal policy. Prisons were located in normal houses, bought or rented for the purpose, in wards for example in the Cairo citadel, and in sheds or barracks (*hasil*). Prisoners spent the night in large communal rooms, and there were no individual cells until 1861 when, as mentioned above, solitary confinement was introduced in the police jails as an exceptional punitive measure. There was no special prison architecture based on precise ideas about the treatment of prisoners and with the aim of ensuring maximum security against escapes. Prison buildings as a rule allowed the inmates to communicate with the outside world through the windows or thin walls and were hardly protected against escapes, which took place frequently. Such security as existed was achieved by the presence of guards and by chaining prisoners.

Prison conditions were not aimed at isolating prisoners from society, and prisoners were in close contact with the outside world. This was facilitated by two factors: inmates depended on their relatives for food, particularly in local prisons; those sentenced to forced labour would often work together with free labourers.

From the story of poor Umm Shahata it is clear that it was customary for relatives and friends to hand food and money to the prisoners. Only when there were no relatives was food provided at the expense of the local government for men or by the Bayt al-Mal (State Fund for Social Affairs) for women.³² Since 1836, prisoners who were unable to support themselves were entitled to a standard ration of some 900 grams of coarse bread (*khubz jiraya*) per day.³³ The inmates of the Alexandria Prison and the Qal'a al-Sa'idiyya, who due to the distance could not be visited by their relatives frequently, were entitled to more varied rations, including lentils, rice, clarified butter and even a small amount of meat per month, apart from 28 kilograms of

coarse bread. From 1863, these rations were also provided in the other local prisons.³⁴ They were not very different from the food schoolboys in state boarding schools received during the same period.³⁵ Since most prisoners had to work, the supply of sufficient quantities of food was seen as necessary for the prisoners' productivity and perhaps even as a form of wages.

All prisoners had to work, except those held in simple detention. The nature of the work varied. Those detained in the regional prisons and sentenced to 'lowly jobs' were employed in simple chores like cleaning, sweeping and activities connected with construction, such as making mud bricks. Forced labour in factories was regarded as more tiresome than the 'lowly jobs'. Often prisoners would work together with free labourers, as illustrated by the following account, which also gives an impression of the circumstances under which the convicts were put to work.

In 1849 a certain Ahmad al-Sa'idi, a convict sentenced to five years of hard labour working in the bakery of the Alexandria Dockyards Prison, managed to escape. The bakery foreman, Muhammad al-Farran, was tried for al-Sa'idi's escape, and his trial shed light on the circumstances of this escape. The prisoners worked in the bakery together with other workers. Usually prisoners were chained together in pairs. However, they were disconnected from one another in the bakery since each prisoner independently operated a bellows. During the afternoon break, when the prisoners were left in the workshop and the other workers sat outside, Ahmad managed to escape through one of the chimneys. Later his shackles were found on the roof of the bakery. As only the foreman was present with the prisoners in the bakery – it appeared that he usually ate with them – he was accused of connivance with the escaped prisoner and, on the strength of the relevant provisions, sentenced to a prison term equal to the time that the escaped convict still had to serve.³⁶

With regard to the Alexandria Prison, the sources, especially the records of trials of negligent guards, allow us to form an impression of the working conditions of the inmates. Prisoners were detained in the Navy Arsenal, which was located in the Western shore of the peninsula. They represented only a small fraction of all people employed here. In the late 1830s

there were about 200 prisoners out of a total workforce of several thousands.³⁷ As the prisoners represented such a small part of the arsenal workforce, the gatekeepers were not especially instructed to keep an eye on them. When some prisoners escaped, the Nubian gatekeepers were questioned about the affair. They answered that it was their duty to protect government property and not to guard prisoners. The gatekeepers noted that there were specially appointed military units to guard prisoners, and that their only obligation was to prevent prisoners from leaving without a guard.³⁸

The inmates were originally employed in digging and carrying earth, activities connected with the construction of the harbour and the docks. Later their work consisted of chores like loading and unloading ships and carts or in activities connected with the numerous workshops of the arsenal. Every morning the prisoners were distributed over the various activities and workshops. The foreman of a workshop would sign a receipt upon the arrival of the prisoners, who would work side by side with the ordinary workers, but were not allowed to leave the workshop during the breaks (*ḡayḡus*, *ḡadus*). Two of the ordinary labourers would be placed near the doors of the workshop in order to prevent the prisoners from leaving, and to accompany prisoners to the latrines. Prisoners would also work outside the arsenal, in which case each pair (*ḡatr* or *ḡabl*, lit. 'rope') of prisoners, would be accompanied by one guard.³⁹

Duration of Imprisonment

As a rule, sentences of imprisonment were pronounced for a specified period. This had been one of the objectives of Mehmed 'Ali Pasha's penal reforms.⁴⁰ However, both the QM and the QS contained articles imposing unspecified prison terms.⁴¹ Where it occurred in the QS, it was a continuation of traditional Ottoman practice and at the same time an attempt to single out habitual offenders and keep them in prison regardless of their sentences.⁴² However, from the prison records it is clear that most convicts were sentenced to specific terms.⁴³ These terms were taken seriously by the administration, although there are examples of a certain sloppiness

on the part of the prison officials in releasing the inmates on time. Complaints on this account, however, were carefully investigated at the highest level.⁴⁴

When prisoners were released they had to provide a guarantor to vouch for their good behaviour. These guarantors were often the village shaykhs, which meant that the fact that someone had served a prison sentence was well known, especially in the countryside. It seems that they were sent to their village or town of origin, and had to report to the authorities there.

A prison term was not immutable, and every offender had a good chance of early release before the completion of his sentence. There were frequent amnesties: between 1829 and 1869 I have found 11 instances.⁴⁵ They were probably used to ease the overcrowding of prisons. As a result, there was often no obvious relationship between the time actually served and the seriousness of the crime.

Conclusions

This chapter has sought to question the extent to which the prison system, as it existed in nineteenth-century Egypt, led to stigmatisation and social exclusion or marginalisation of released prisoners. As there are no sources giving information about personal experiences of ex-convicts and of the people who had contact with them, or contemporary official reports on the reintegration of ex-prisoners in society, I cannot give an unequivocal and unassailable answer. The only way to find an answer is by inference. I will examine whether or not the system would be conducive to social exclusion or marginalisation by establishing the absence or presence of the factors listed in the introduction.

The first point to notice is that the necessary condition for stigmatisation was fulfilled: as a result of the system of guarantors after the release of prisoners, the local community would know of a prison sentence of one of its members. Yet, my conclusion is that the prison system was not very conducive to social exclusion. I have several arguments to support this conclusion.

The stigmatisation of ex-convicts would be strongest in legal systems in which all prison inmates are convicted of crimes that are widely recognised as moral in nature. In such a system, serving a prison term would point unequivocally to a criminal background. This was obviously not the case in Egypt.

Having served a prison term did not necessarily testify to a criminal past, nor did it automatically mean that one was a morally evil person deserving to be shunned by his community. Many people were in prison for having violated a legal order alien to the norms and values of large segments of the population, or for other reasons than having committed criminal offences, as in the case of debtors and political prisoners. In addition, village and neighbourhood shaykhs and rural guards were often sentenced to prison terms for negligence in connection with crimes committed in the areas under their authority. They and their communities must have regarded this as a professional hazard, and not as something for which they were morally to blame. To make matters more confusing, some criminal convicts were not released from prison but demobilised from the army. Young offenders were often sent to the army as an alternative for imprisonment. It is plausible that a prison term was in many cases regarded as a calamity inflicted by the state and of the same order as military service or *corvée*. Such a view must have been reinforced by the frequent inconsistencies between the seriousness of the crime and the time actually spent in prison due to the frequent amnesties.

My second argument would be that prisoners were not isolated from society. They could be visited by their relatives and worked side by side with other workers in factories and workshops. This was important for their reintegration in society, since the time spent in prison would not totally alienate them from society outside the prison walls and, even more important, would prevent the spread in society of a demonised image of convicts. This may have been different for those deported to the Sudan, but that falls outside the scope of this chapter.

Observations by European contemporaries seem to corroborate this conclusion. Clot Bey, the French director of the Egyptian Health Service, wrote in his *Aperçu*:

Those guilty of certain crimes are sentenced for greater or lesser periods of forced labour; but the Egyptian convict is not stigmatised: after having served his punishment he returns to society and holds the same rank as before his stay in prison; should he wish to marry, no family of his station would consider itself sullied by the alliance.⁴⁶

The French traveller Victor Schoelcher, who visited Egypt in 1845 and had a chance to enter several prisons, repeatedly emphasised that Egyptians did not regard imprisonment as shameful.⁴⁷ And in 1897 an English official remarked, 'The great difficulty in Egypt is to make imprisonment a real punishment. The disgrace of being put in prison – a factor of considerable efficacy in more advanced countries – is scarcely felt by the mass of the population here.'⁴⁸

Naturally, one has to be cautious in accepting such observations by Western visitors because of their cultural bias. However, in combination with the arguments mentioned above, I believe that the conclusion is justified that imprisonment in general was not seen as a shameful event, and that released convicts were not socially excluded from society or marginalised.

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Notes on Chapter 2

- 1 For the administration of criminal justice, see Rudolph Peters, 'Islamic and Secular Criminal Law in 19th Century Egypt: The Role and Function of the Qadi', *Islamic Law and Society* 4 (1997) pp. 70–90; and Peters, 'Administrators and Magistrates: The Development of a Secular Judiciary in Egypt, 1842–1871', *Die Welt des Islams* 39 (1999) pp. 378–97.

- 2 Egyptian National Archives (*Dar al-Watha'iq al-Qawmiyya*, hereafter DWQ; note that the Arabic letters *sin* and *lam* used in the classing of documents have been rendered S and L, respectively), S 7/10/29, *Majlis al-Ahkam, al-Madabit al-Sadira* pp. 135–6, *madbata* 133, dated 11 Rajab 1282/30 November 1865; order issued to the Ministry of the Navy (under whose jurisdiction the Alexandria Dockyards Prison came) dated 21 Rajab 1281/20 December 1864, DWQ, S 1/1/30, *Ma'iyya Saniyya, al-Awamir al-Sadira* pp. 90 and 121; DWQ, L 2/2/5, 530 (old), *Dabtiyyat Misr, Sadir al-Aqalim* p. 24, no 7, letter to Muhafazat Iskandariyya dated 12 Rabi' I 1278/17 September 1861 (this is the letter with which Muhammad 'Ali was sent to the Alexandria Dockyards Prison).
- 3 John Bowring, 'Report on Egypt and Candia', *Great Britain Parliamentary Papers* vol. 21 (1840) p. 123; James August St John, *Egypt and Mohammed Ali, or Travels in the Valley of the Nile*, vol. 2 (London, 1834) p. 474; see also G. Guémard, *Une Oeuvre française: Les Réformes en Egypte, d'Ali-Bey El Kébir à Méhémet-Ali, 1760–1848* (Cairo, 1936) p. 257.
- 4 H. Couvidou, *Étude sur l'Égypte contemporaine* (Cairo, 1873) p. 307.
- 5 I have seen only one such sentence pronounced against a soldier charged with having willingly allowed a prisoner to escape; order to the *Muhafiz* of the *Qal'a Sa'idiyya*, dated 3 Rabi' II 1272/13 December 1855, DWQ, S 1/1/5, *Sadir al-Awamir al-'Aliyya* p. 144, doc. 15.
- 6 *Al-Qanun al-Muntakhab* (The Penal Code of 1844), art. 111.
- 7 *Amr 'Ali* of 26 Dhu al-Hijja 1277/6 July 1861; Amin Sami, *Taqwim al-Nil* (Cairo, 1928–36) vol. 3/1 p. 375. The interdiction to flogging was repeated one year later, in an instruction to newly founded regional courts; *Irada Saniyya* of 22 Dhu al-Qa'da 1278; Sami, *Taqwim*, vol. 3/1 p. 403.
- 8 To the best of my knowledge, the registers of the Sudan provinces in the Egyptian National Archives have not yet been catalogued.
- 9 Register of criminal inmates in the Alexandria Prison, DWQ, *Diwan al-tarsana*, 954 (old), *Qayd asma' al-madhnubin bi-liman tarsanat Iskandariyya*. There were no military prisons at that time. Soldiers would be sent to regular prisons.
- 10 See Rudolph Peters, 'The Origins of Nineteenth Century Egyptian Criminal Legislation Enacted Before 1883', unpublished paper presented at the 1996 MESA conference.
- 11 Army service was mentioned as a form of punishment in the *Qanun al-Filaha* of 1830 (arts 15 and 17) and the Penal Code of 1849 (arts 8, 11, 32). Although not listed in the QS as a separate

- form of punishment, young offenders who were fit for military service were often sent to the army. See, for example, DWQ, L 1/20/1 *Muhafazat Misr, al-qararat al-sadira bi-majlis Muhafazat Misr* p. 19 no 22, dated 18 Rabi' II 1272/28 December 1855; and p. 33 no 29, 12 Jumada I 1272/20 January 1856.
- 12 *Amr 'Ali* of 26 Dhu al-Hijja 1277/6 July 1861; Sami, *Taqwim*, vol. 3/1 p. 375.
 - 13 The QM (art. 17) speaks of 'employment in government building sites in the district of [the convict's] origin' (*al-istakhdam fi l-abniya al-miriyya al-mawjuda fi al-ma'muriyya allati huwa minha*). The QS refers to this punishment as 'employment in lowly jobs' (*al-tashghil/ al-istikhdam fi khidamat dani'a/ ashghal suftiyya*).
 - 14 Order of 16 Dhu al-Hijja 1273/7 August 1857, DWQ, card index s.v. *sihn*, box 14 *Turki*, leaf 132, doc. 398. By the end of 1862 the *Qal'a Sa'idiyya* was still in use as a prison; see order of 27 Jumada II 1279/20 December 1862, DWQ, *Ma'iyya Saniyya, daftar* 1905 p. 36, doc. 23 (based on DWQ card index s.v. *sihn*).
 - 15 Reference is made to prisoners in a large factory in Bulaq in an order dated 29 Ramadan 1252/7 January 1837. DWQ, *Mulkiyya Turki*, 5 (old) p. 174, doc. 174 (based on DWQ card index s.v. *sihn*). See also DWQ, *Majlis al-Ahkam*, box 2, doc. 2/63, 16 Dhu al-Hijja 1266/23 October 1850, and doc. 2/82, 24 Dhu al-Hijja 1266/31 October 1850.
 - 16 Letter dated 24 Jumada I 1281/25 October 1864 to Majlis Isti'naf Qibli, on the abolition of the department of works (*al-Waburat wa-l-Amaliyyat*); DWQ, S 7/4/33, *Majlis al-Ahkam, Sadir al-aqalim al-qibliyya* p. 83, doc. 21. Order to Hukumdar al-Sudan no 5, dated 21 Safar 1272/2 November 1855, mentioning that a person was sentenced to life imprisonment in the tarsanat al-Khartum; DWQ, S 1/1/5, *al-Ma'iyya al-Saniyya, Sadir al-Awamir al-'Aliyya* p. 79.
 - 17 Appointment of Salim Pasha al-Jaza'irli, 9 Ramadan 1281/5 February 1865. Sami, *Taqwim*, vol. 3/2 p. 597.
 - 18 DWQ, S 1/8/42, *Sadir al-Ma'iyya al-Saniyya li-l-Dawawin wa-l-Aqalim wa-l-Muhafazat* p. 593, doc. 261, 18 Rajab 1272/25 March 1856, to Muhafazat Misr.
 - 19 Victor Schoelcher, *L'Égypte en 1845* (Paris, 1846) p. 30.
 - 20 The figures over time were as follows: 1847: 450 inmates; 1860: 600 inmates; 1865: 400 inmates; 1866: 650 inmates; 1868: 250 inmates. I have found these figures with the help of the five *sijills* concerning the Alexandria Prison, by counting the number of prisoners that entered in a given year and multiplying it with the average period spent in the prison. Another source states that on 4 December 1862 the number of inmates was 443. See DWQ, S 7/10/23, *Majlis al-Ahkam, al-Madabit al-Sadira*, no 893, dated 28 Dhu al-Qa'da 1280 p. 132. The variation in these figures can be explained by the frequent amnesties. On the basis of the admittedly limited material, it would seem that amnesties were granted to ease overcrowding of the prisons.
 - 21 Letter dated 29 Safar 1272 from the *Qal'a Sa'idiyya* to the *Khazin Diwan Khidiwi*, DWQ, *Ma'iyya Turki*, box 8, leaf 11, doc. 58; letter dated 3 Safar 1272 from the *Qal'a Sa'idiyya* to the *Katib al-Diwan al-Khidiwi*; and leaf 12, doc. 474. There were 609 bedouins in the *Qal'a Sa'idiyya* in 1855; see letter from Wakil Nazir al-Jihadiyya to *al-Ma'iyya al-Saniyya*, dated 8 Muharram 1272/20 September 1855 in DWQ, *Ma'iyya Turki*, box 8, doc. 58.
 - 22 Letter from al-Ma'iyya al-Saniyya to Dabtiyyat Misr, dated 4 Muharram 1276, DWQ, S 7/33/1, *Majlis al-Ahkam, Daftar Majmu' umur idara wa-ijra'at* p. 233.
 - 23 Register of criminal inmates in the Alexandria Prison, DWQ, *Diwan al-tarsana*, 954 (old), *Qayd asma' al-madhnubin bi-liman tarsanat Iskandariyya*.
 - 24 See I. Schneider, 'Imprisonment in Pre-Classical and Classical Islamic Law', *Islamic Law and Society* 2 (1995) pp. 157-74.
 - 25 Order of the Majlis Khususi no 32, dated 5 Dhu al-Qa'da 1285/17 February 1869. DWQ, S 11/8/13, *Majlis al-Khususi, al-qararat wa-l-lawa'ih al-sadira*, no 32.
 - 26 See, for example, Wakil Nazir al-Jihadiyya to Ma'iyya, 8 Muharram 1272, box 8 *Ma'iyya Turki, waraqa* 11, doc. 58: this mentions that apart from the ordinary prisoners there were 609 bedouins in the *Qal'a Sa'idiyya*; khedival order to Diwan 'Umm Bahriyya Iskandariyya dated 23 Jumada II 1272, DWQ, *Ma'iyya Saniyya, awamir, daftar* 1884 p. 49, doc. 28: release of 71 bedouins from the *liman* at the request of their shaykh; information taken from DWQ card index, s.v. *sihn*.
 - 27 Order to send a list of all imprisoned bedouins addressed to the commander of the *Qal'a Sa'idiyya* no 20, dated 5 Jumada II 1272/12 February 1856. DWQ, S 1/1/5, *Ma'iyya Saniyya, Sadir al-Awamir al-'Aliyya* p. 144; same order to the Alexandria Prison, dated 25 Jumada II 1272; *ibid.* p. 70, doc. 29. *Diwan al-tarsana, sijill* 954 p. 131, 19 Rajab 1279/10 January 1863, entry of 82 bedouins from Upper Egypt, referred to as '*urban ashqiya*', aged between 10 and 70, without specification of crime or prison term.
 - 28 See e.g. DWQ, *Diwan al-tarsana*, 956 (old) p. 14.
 - 29 See, for example, *Dhikr waza'if mutafarri'a bi-l-majlis*, art. 5, in Filib Jallad, *Qamus al-idara wa'l-qada'*, vol. 2 (Alexandria, 1890-2)

- pp. 105–6, laying down that those held in custody and those held for debt at the local prisons had to be separated from the convicts, who in turn had to be separated according to the seriousness of their crimes.
- 30 Letter to the Muhafiz of Alexandria dated 5 Safar 1246/26 July 1830, informing him that 112 Turkish and Arab officials from Upper Egypt were on transport to Alexandria to serve a term of six months in the Alexandria Prison. DWQ, *Diwan Khediwi Turki, daftar* 757 (old) p. 35, doc. 117 (Information from the DWQ card index, s.v. *sijn*).
 - 31 DWQ, L 2/6/2, *Dabtiyyat Misr, Sadir*, no 99 p. 1–3, dated 24 Ramadan 1264/24 August 1848.
 - 32 QS, ch. 3, arts 15 and 17.
 - 33 DWQ, S 7/33/1, *Majlis al-Ahkam, Daftar Majmu' umur idara wa-ijra'at*. This *sijill* contains some decrees regarding prisons. p. 234: *Khulasa min Majlis Mulkiyya (tarjama)* from 1252 (1836–7), decree stating that all indigent prisoners, wherever they were kept, were entitled to three loaves of coarse bread (*jirayat*) weighing 309 grams (100 *dirham*) each; p. 233: Decree of the *Majlis Al-Ahkam*, dated 19 Ramadan 1266/29 July 1850, with the same contents.
 - 34 A khedival order dated 11 Dhu al-Hijja 1279/30 May 1863, sent to all *mudiriyyas* and other relevant authorities, instructing them to distribute the rations already in use in the Alexandria Prison and al-Qanatir al-Khayriyya; DWQ, S 1/1/22, *al-Ma'iyya al-Saniyya, Sadir al-awamir al-'aliyya ila al-majalis wa'l-dawawin wa'l-aqalim wa'l-muhafazat* p. 24, doc. 2.
 - 35 These pupils received monthly rations consisting of 23.2kg of bread, 3.7kg of lentils, 1.9kg of ful beans, 0.9kg of clarified butter, 1kg of rice and 2.2kg of meat: Sami, *Taqwim*, vol. 3/2 p. 554, 1 Muharram 1281/6 February 1864.
 - 36 DWQ, S 6/9/6, *al-Jam'iyya al-Haqqaniyya, Daftar Qayd al-Khulasat* p. 3 no 2, dated 8 Shawwal 1263/19 September 1849.
 - 37 Bowring, 'Report' p. 59, mentions 200 prisoners and over 5000 employees; for other estimates of the number of employees in the Alexandria Arsenal (4000 to 8000), see Robert Ilbert, *Alexandrie, 1830–1930* (Cairo, 1996) vol. 1 p. 18 and Michael Reimer, *Colonial Bridgehead: Government and Society in Alexandria, 1807–1882* (Boulder CO and Cairo, 1997) p. 56.
 - 38 DWQ, S 7/10/23, *Majlis al-Ahkam, al-Madabit al-Sadira* p. 132, doc. 893, dated 28 Dhu al-Qa'da 1280/5 May 1864.
 - 39 Unless otherwise indicated, the data on the organisation of the Alexandria Arsenal are culled from the following trials of guards for negligence in guarding prisoners: DWQ, S 6/9/6, *al-Jam'iyya al-Haqqaniyya, Daftar Qayd al-Khulasat* p. 3 no 2, 8 Shawwal 1263/19 September 1847; DWQ, *Diwan al-Tarsane, sijill* 1037, *Qayd al-qararat* p. 22 no 12, dated ult. Rabi' I 1275/December 1858; DWQ, S 7/10/18, *Majlis al-Ahkam, al-Madabit al-sadira* p. 35, no 336, dated 13 Jumada II 1280/25 November 1863; DWQ, S 7/19/23, *Majlis al-Ahkam, al-Madabit al-sadira* pp. 132–5, doc. 893, dated 28 Dhu al-Qa'da 1280/5 May 1864.
 - 40 See Rudolph Peters, 'For His Correction and as a Deterrent Example for Others: Mehmed 'Ali's First Criminal Legislation (1829–1830)', *Islamic Law and Society* 6 (1999) pp. 164–93.
 - 41 See, for example, QS, ch. 1 art. 15: female accomplices to homicide had to be imprisoned in a women's prison 'until her attitude is suitable and her repentance is good'. Ch. 3 art. 13: evildoers (*ashrar*) – in modern terminology habitual offenders – were only released from prison after the completion of their term, only if it had become clear that they had become honest and of good behaviour and could find a relative willing to be their guarantor (*damin*).
 - 42 Uriel Heyd, *Studies in Old Ottoman Criminal Law*, V.L. Ménage (ed.) (Oxford, 1973) p. 302.
 - 43 There are rare exceptions: see, for example, letter from Muhafiz al-Qal'a al-Sa'idiyya to Khazin Khidiwi, dated 19 Shawwal 1272, DWQ, *Ma'iyya Turki*, box 12, leaf 24, doc. 254. Military offenders – at least in 1861 – were usually sentenced without a term (*bidun mudda*). As a rule, deserters were released after six months. DWQ, *Diwan al-Tarsana, sijill*, 954 (old), *Qayd asma' al-mudhribin bi-liman tarsanat Iskandariyya* (1277–81).
 - 44 For example, the petition of a prisoner under the authority of the Department of Industry (*al-waburat wa'l-'amaliyyat*), dated 17 Rabi' II 1275/24 November 1858, in which he complained that he had not been released in time, since the period of pre-trial detention had not been deducted from his prison term as stipulated in his sentence; DWQ, S 7/9/5, *Majlis al-Ahkam, Qayd al-'arduhalat al-sadira* p. 105 no 1.
 - 45 The list of general amnesties: 10 Muharram 1244/1828, amnesty for all prisoners in Abu Qir; 6 Muharram 1248/1832, amnesty for all prisoners except murderers and robbers in celebration of the capture of 'Akka; 24 Jumada I 1265/1849, general amnesty for all prisoners except murderers and robbers; 19 Shawwal 1272/1856, amnesty for all prisoners except murderers and robbers; 6 Ramadan 1277/1861, amnesty for murderers and robbers in the

Alexandria dockyards on occasion of circumcision of the Khedive's son; 12 Muharram 1279/1862, amnesty for all prisoners on occasion of circumcision of the Khedive's son; 12 Sha'ban 1279/1863, general amnesty for all prisoners except murderers and robbers; 15 Ramadan 1281/1865, amnesty for those in 'work companies' who had completed their term in the 'reformatory unit'; 21 Rajab 1282/1865, amnesty for all prisoners with less than 10 months remaining of their sentences; 5 Rabi' I 1283/1866, amnesty for all prisoners with less than three-and-a-half-year sentences except murderers, robbers and debtors; 1 Rabi' I 1285/1868, amnesty for prisoners with less than three months remaining of their sentences; 28 Sha'ban 1286/1869, amnesty for 200 inmates of the Alexandria Dockyards on occasion of the visit of the Austro-Hungarian emperor.

- 46 A. B. Clot Bey, *Aperçu général sur l'Égypte*, vol. 1 (Paris, 1840) p. 105.
- 47 Schoelcher, *L'Égypte en 1845*.
- 48 'Report on the Administration, Finances, and Conditions of Egypt and the Progress of Reforms', *Parliamentary Papers*, 1898, CVII, 621 pp. 25-6, as quoted by Judith Tucker, *Women in Nineteenth-century Egypt* (Cambridge, 1985) p. 159.