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Trevor Dean

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## *Introduction*

The history of criminal justice in the later Middle Ages is important for (at least) two reasons. First, because official justice was present across many areas of life – a major component in the power of states and ruling classes, a significant presence in cities (lawyers, police, court officials, public punishments), a source of material for fiction-writers and painters – and this makes it vital for a wider understanding of the period. Secondly, because of the range of social situations and problems that judicial records give us access to: not just the everyday conflict of insult and injury, but also the oppression of ethnic minorities (Jews, slaves), the frequency of domestic violence, the oppression of servants in urban households, the criminal responsibility of children and the insane, as well as the more colourful cases of skilful thieves, sacrilegious sex and inventive tricksters. The combination of the exotic and the quotidian in one source is hard to resist.

The last three or four decades of the twentieth century saw a great increase of interest among historians across Europe in issues of crime and criminal justice. In general terms, the motivation for this came first from ‘history from below’ and the unrivalled access to lower-class experience that judicial archives afforded. A secondary impulse lay in the developing history of the state and its institutions of repression.<sup>1</sup> These were later joined, though not necessarily reinforced, by ‘microhistory’ and the historiographical desire to reveal the possibilities for individual choice, for ‘negotiation’ and strategy, in relations between individuals and power. Though the level and extent of interest has varied among the countries of Europe, it was most advanced in England, France and Italy. In England there are already numerous works that attempt to survey the many different aspects of criminal justice, from legislation to punishment; while in France there is the incomparable study of pardons by Claude Gauvard (which is much more than a study of

<sup>1</sup> A. Zorzi, ‘Giustizia criminale e criminalità nell’Italia del tardo medioevo: studi e prospettive di ricerca’, *Società e storia*, 46 (1989), pp. 923–5.

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pardons), as well as several general books.<sup>2</sup> But for Italy there is no such survey: this is one effect of the enduring localism of Italian historiography. This book attempts to fill that gap.

My own trajectory towards the study of crime derived from two impulses. One was an existing interest in comparative history: my first publications, though centred on Ferrara, also compared social developments there to those in France and England. In the mid-1980s, I also became aware of the historian Edoardo Grendi drawing the attention of his Italian colleagues to what was happening ‘over the Alps and beyond the Channel in the incipient area of the history of criminality’.<sup>3</sup> The second factor was more broadly historiographical, part of a wide trend, not just a personal choice: a turning away from the history of the politically and socially dominant, on which I had started in the 1970s, to that of the politically and socially dominated. This is an aspect of what Alison Brown, in a different context, has called the movement to ‘de-civilise’ the Renaissance,<sup>4</sup> a trend that has produced a picture of Renaissance society as one that confined and oppressed women, that legalised and permitted slavery, that was increasingly anti-semitic, that despised peasants, and that punished same-sex relationships.<sup>5</sup> Together, these factors led me to shift both the locus and the focus of my research as I followed the greater abundance of documentation: from the study of a princely state to that of a republic, from political and social institutions to law, justice and crime, from Ferrara to Bologna (and more recently to Lucca).

That shift also brought to the fore a need to reflect more systematically on the nature of the judicial sources used in the history of crime. The main issue is that of coerced speech. Marc Bloch in *The Historian’s Craft* distinguishes between two categories of historical document: intentional evidence and unintentional. The former was composed to influence contemporary or future opinion; the latter was intended for an audience of just one reader or for no earthly audience at all.<sup>6</sup> Another French historian, Arlette Farge – a

<sup>2</sup> See the bibliographical note in my *Crime in Medieval Europe*.

<sup>3</sup> E. Grendi, ‘Per lo sviluppo della storia criminale’, *Quaderni storici*, 15 (1980). The quotation comes from M. Sbriccoli, ‘Giustizia negoziata, giustizia egemonica. Riflessioni su una nuova fase degli studi di storia della giustizia criminale’, in *Criminalità e giustizia in Germania e in Italia*, ed. M. Bellabarba, G. Schwerhoff and A. Zorzi (Bologna and Berlin, 2001).

<sup>4</sup> A. Brown, ‘De-civilizing the Renaissance’, *Bulletin of the Society for Renaissance Studies*, 15:1 (1997).

<sup>5</sup> As evidenced in the work of, for example, C. Klapisch-Zuber, *Women, Family, and Ritual in Renaissance Italy* (Chicago and London, 1985); M. Rocke, *Forbidden Friendships: Homosexuality and Male Culture in Renaissance Florence* (New York and Oxford, 1996); S. A. Epstein, *Speaking of Slavery: Color, Ethnicity and Human Bondage in Italy* (Ithaca and London, 2001); S. Cohn, *Creating the Florentine State: Peasants and Rebellion, 1348–1434* (Cambridge, 1999), among many others.

<sup>6</sup> M. Bloch, *The Historian’s Craft* (New York, 1953), pp. 60–1.

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historian of crime in eighteenth-century Paris – uses this distinction to argue for the uniqueness of judicial records as a historical source: unlike a printed text that is consciously structured to produce an effect, the judicial archive preserves in its statements, confessions and depositions traces of lives that did not choose to be narrated in this way, which are coerced, confronted by the realities of police power and repression. They deliver what would not have been said, had some event not disturbed the peace of the locality. Reading these voices, she says, is like lifting a veil, disclosing a few moments in the lives of ordinary people, rarely visited by history.<sup>7</sup> And in lifting the veil, historians should beware of appropriating what they find. Edward Muir and Guido Ruggiero, in their volume *History from Crime*, suggest, in contrast to the clichéd comparison of historians to judges, that we should instead consider history as a crime and historians as criminals.<sup>8</sup> And what crimes do historians commit? Chiefly theft: expropriating judicial secrets and appropriating the past, ‘absconding with the words of others to make their own classifications, to write their own narratives’. The coerced speech of people otherwise unknown thus brings with it a whole series of problems of interpretation (on which, see below, pp. 31, 191–2).

These thoughts on how historians often present themselves to their public – the stress on revelation – have particular significance in the history of crime and criminal justice, because of the nature of judicial sources.<sup>9</sup> Arlette Farge’s small volume on working in the (Parisian) judicial archive explores some major themes in reading and using court records. She makes three main points. First, she draws attention to the ‘reality effect’ that this type of documentation creates, the sense of being in touch with living people; secondly, she warns of the traps and problems that the documentation sets for us; and, thirdly, she gives examples of the ways in which, nevertheless, we can use the riches of the judicial archive. It is because the judicial archive ‘snatches from obscurity countless inarticulate people, summoned to explain themselves’, it is because it preserves ‘fragments of life dragged from the crowd’ that it captivates the reader and creates the impression of giving access to real life.<sup>10</sup> However, the ‘reality effect’ fades, ‘the mirage does not last’, and we have to face the twin problems of interpreting – asking questions of – this material, and then finding something to do with it.<sup>11</sup> The first step is to recognise that the speakers in these records are not

<sup>7</sup> A. Farge, *Le goût de l'archive* (Paris, 1989), pp. 12–13.

<sup>8</sup> *History from Crime*, ed. E. Muir and G. Ruggiero (Baltimore and London, 1994), pp. vii–viii

<sup>9</sup> J. Arnold, ‘The historian as inquisitor: the ethics of interrogating subaltern voices’, *Rethinking History*, 2 (1998), pp. 381, 385.

<sup>10</sup> Farge, *Le goût de l'archive*, p. 36.      <sup>11</sup> *Ibid.*, p. 19.

speaking directly to us at all: the version that we have – of their speech and of their actions – is that of the authorities, of the court and the clerk to the court. Not recognising this is the error (if error it was) made by Le Roy Ladurie in his great work on Montaillou, the heretical village investigated by an inquisitor in 1318. Ladurie used the words of the villagers as if they were spoken to him, a sort of time-travelling ethnographer; he marginalises and forgets the figure of the inquisitor and the context in which the words were spoken. As Renato Rosaldo put it, Ladurie separates ‘the data from the instrument through which they were collected’.<sup>12</sup> There can be theoretical justification for this operation: Paul Ricœur writes of the archive as the place where words are detached from their original speaker and his or her audience – Ricœur creates the figure of the archive as one giant orphanage – and argues that without either speaker or audience, those words become semantically free, liberated to take on new meanings.<sup>13</sup> Now, at one level, this is unimpugnable – signifiers after all can have any number of signifieds – but part of history writing is precisely to restore some identity to speaker and audience in order to limit the range of meanings, and to anchor the text. And so it is that historians using court records have drawn attention not only to the likelihood of the use of torture, but also to the court-room context: even if the words of the accused and witnesses were not inflected by pain, they were still articulated by the weak before the powerful. Farge sees in such words the working of adjustments between the self, the social group and power. Speech as recorded is caught in the act of making those adjustments, in a desire to convince its audience.<sup>14</sup> The next problem is what to do with the profusion of material in the judicial archive. As Farge says, this archive miniaturises the historical object, it offers ‘un monde morcelé’, a profusion of imperfect, incomplete individual narratives, and yet such fragments of individual lives can connect to wider collective themes, and small events can reveal social identities, forms of sociability, ways of perceiving and communicating.<sup>15</sup> In other words, they offer something more than, and something different from, the mere ‘history of crime’.

Writing the history of medieval (as opposed to eighteenth-century) crime faces a range of additional problems. Zorzi has argued that studies of criminality in medieval Italy – as opposed to studies of criminal law and criminal justice – have remained few for a variety of methodological reasons.<sup>16</sup> First, the fact that crime is accessible only through trial documents, which raises

<sup>12</sup> R. Rosaldo, ‘From the door of his tent: the fieldworker and the inquisitor’, in *Writing Culture*, ed. J. Clifford and G. F. Marcis (Berkeley, 1987), p. 79.

<sup>13</sup> P. Ricœur, *La mémoire, l'histoire, l'oubli* (Paris, 2000), pp. 209–11.

<sup>14</sup> Farge, *Le goût de l'archive*, pp. 39–40. <sup>15</sup> *Ibid.*, pp. 99, 101.

<sup>16</sup> Zorzi, ‘Giustizia criminale’, pp. 957–8, 961.

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issues of reliability in both qualitative and quantitative terms. Secondly, the difficulties of placing trial documents into the context of local penal strategies and practices, and of connecting crime with underlying structures of economic, social and political relations. Gauvard too points to methodological obstacles. The first obstacle is qualitative: more actions were punished than were defined as criminal by the law. The second is quantitative: the sources, though abundant, are diverse and discontinuous, and so cannot be compared with each other. The relation of prosecuted crime to total crime is uncertain: individuals and communities selected crimes to denounce to the authorities, while private pacification settled some disputes. As a result, the records of official justice preserve just one part of the 'economy of justice'.<sup>17</sup> Records of official justice tell us as much about judicial procedures as about the crime and the criminal. 'No source tells of the crime alone, but each gives a discourse on the crime.'<sup>18</sup> The problem for the historian therefore becomes twofold: analysing sources while respecting their typology; and distinguishing the reality of crime from the descriptions it gives rise to (as the image of crime varies according to source).<sup>19</sup> Gauvard's solution to this conundrum was to focus on one type of source, namely royal pardons. My response is different in turn.

This book attempts to address these problems by adopting and extending a structure also used by some other recent works of Italian social history: Cohn on peasants, for example, or Epstein on slaves.<sup>20</sup> This is to build up different, but complementary, pictures from discrete classes of documentation. In Cohn's case it was chronicles, criminal records and government measures, and in Epstein's names, laws and contracts. Here the five types of document will be legislation, prosecutions, *consilia* (opinions of learned lawyers on specific cases), chronicles and fiction. Each source opens a different window on the problem, though not necessarily on past 'reality', as these texts are all shaped by the conventions of their genres. The fragmentation of viewpoint in Part One owes something to microhistory and its literary analogues,<sup>21</sup> especially their refusal to smoothe over gaps and disparities in the evidence. Microhistory developed as a critique of a type of history in which 'different pieces of evidence, written from various (sometimes even conflicting) perspectives, are combined in order to build up

<sup>17</sup> C. Gauvard, *De grace especial: Crime, état et société en France à la fin du Moyen Age* (Paris, 1991), pp. 6–9.

<sup>18</sup> *Ibid.*, p. 9.      <sup>19</sup> *Ibid.*, p. 15.

<sup>20</sup> Cohn, *Creating the Florentine State*; Epstein, *Speaking of Slavery*.

<sup>21</sup> C. Ginzburg, 'Proofs and possibilities: in the margins of Natalie Zemon Davis' *The Return of Martin Guerre*', *Yearbook of Comparative and General Literature*, 37 (1988), pp. 120–1; Ginzburg, 'Microhistory: two or three things that I know about it', *Critical Inquiry*, 20 (1993), pp. 23–4, 30.

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a smooth, homogeneous narrative'. Instead, each piece of historical evidence needs 'a specific interpretive framework, related to the specific code according to which the evidence has been constructed'.<sup>22</sup> In Part One, each chapter deals with one type of documentation, in the light of both the problems the source poses and the information it provides. In Part Two, however, I do attempt to smoothe over gaps and disparities in the evidence, in order to examine a range of crimes or behaviours, and to offer some generalisations. Material here is drawn chiefly from cities outside the historiographical duopoly exercised by Florence and Venice: from the archives in Bologna, Mantua, Modena, Reggio, Savona and Lucca; and from published documents for the whole of late medieval Italy, from the duchy of Savoy and the Venetian *terraferma* to the kingdoms of Naples and Sicily. From the thousands of printed volumes of statutes, I have focused on a range of cities, large and small, across most areas of Italy, including the South and Sicily. I have tried to mirror this geographical spread in the selection of chronicle material. I have used the printed collections of *consilia* of the leading legal consultants, supplemented by some minor ones, and the best-known collections of fictional tales or *novelle*. Omissions, of course, there are. At the archival level, several of these omissions are compensated by the availability of good secondary studies.

There may be critics who will argue that it is hazardous, if not misleading, to put together material in this way, without due regard to the institutional, social and contextual differences between, say, an insult delivered in the street in Savona, and one uttered in Palermo (on which see below, pp. 113–16). The answer lies in pointing to the rationale and benefits of comparative history. Marc Bloch's essay on this subject, first published in 1928,<sup>23</sup> remains an influential statement of the values and dangers of this method, and it seems worthwhile, at the beginning of this book, to rehearse his distinctions and arguments, especially as they continue to be used by those who advocate the comparative method.<sup>24</sup> Bloch pointed to the substantial benefits of comparative analysis: whether one is looking for differences or similarities, it can both reveal problems and suggest explanations beyond the 'maze of little local facts' and the 'exclusively local'. Only comparison

<sup>22</sup> C. Ginzburg, 'Checking the evidence: the judge and the historian', *Critical Inquiry*, 18 (1991), pp. 83–4.

<sup>23</sup> 'A contribution towards a comparative history of European societies', in *Land and Work in Mediaeval Europe: Selected Papers by Marc Bloch*, trans. J. E. Anderson (Berkeley and Los Angeles, 1967), p. 45.

<sup>24</sup> For example, C. N. Degler, 'Comparative history: an essay review', *Journal of Southern History*, 34 (1968); R. Grew, 'The case for comparing histories', *American Historical Review*, 85 (1980); G. M. Frederickson, 'Comparative history', in *The Past before Us: Contemporary Historical Writings in the United States*, ed. M. Kammen (Ithaca and London, 1980).

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outside the conventional boundaries of a unit of analysis can reveal features that seem, in purely local study, to be natural developments. Later writers have followed Bloch here. Historians might compare the similar in order to produce generalisations and syntheses, theories and models; or they might compare the dissimilar in order to make new discoveries, illuminate special features of the unit analysed.<sup>25</sup> The dangers have also been reiterated and extended by subsequent authors. Bloch noted the barriers that inhibit the writing of comparative history: each group of local historians asks different questions within units that might seem comparable,<sup>26</sup> and a historian from outside has 'to grope his way all of a sudden in what seems to be a new world'. The comparative historian is thus at a disadvantage compared to those with local expertise, those who know the documents and their associated historiography much more intensively. Since Bloch wrote, this disadvantage has undoubtedly grown, as specialisation has advanced and deepened. Given that comparison seems to require 'equal expertise in at least two societies, languages, traditions of record-keeping and interpretation', it is unsurprising that few historians are willing to abandon the benefits of specialisation.<sup>27</sup> Moreover, the difficulty of comparison has been underlined at a theoretical level: are the units chosen for comparison typical of the broader societies of which they are part? Are the common features actually important for understanding the working of the compared units?<sup>28</sup> This, however, does not make comparison an impossible path, because all historians are faced with this problem of dealing with the difference in viewpoint between themselves and the actors in the past who are the object of their study.

I have tried in this book to draw on the benefits of comparative history, while hoping to avoid the dangers. I have certainly not made myself equally expert in the history of all the cities and regions covered in this book, and I hope that local historians, in judging my effort to use material with which they are more familiar, will remember the comparative historian's answer, as formulated once again by Marc Bloch: local historians have an advantage of expertise over me, but I have one advantage over them, which is that I have read works on similar matters in other places and have tried to draw inspiration from them.<sup>29</sup>

<sup>25</sup> Ibid., p. 458; F. Redlich, 'Toward comparative historiography: background and problems', *Kyklos*, 11 (1958), pp. 378, 382.

<sup>26</sup> Bloch, 'Contribution', pp. 73–4.      <sup>27</sup> Grew, 'The case for comparing histories', p. 767.

<sup>28</sup> R. F. Berkhofer, *A Behavioral Approach to Historical Analysis* (New York and London, 1969), pp. 254–6.

<sup>29</sup> Bloch, 'Contribution', p. 51.

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This leaves the question of how to write such a history, of what material to select and what words to use. It might be said, for example, that the material – sex, slander and bizarre atrocities – lends itself to snappy and exciting writing. This, however, is to fall into the ‘sensationalist trap’, and twice over. The first part of the trap lies, as Sam Cohn put it, in ‘quarrying judicial records for those activities least represented in them’.<sup>30</sup> This is a fault that mars the otherwise excellent collection of Florentine documents assembled by Gene Brucker: over half of his documents deal with crime in its various forms, from unlawful killing (homicide, infanticide, uxoricide, etc.), through sex crimes (rape, incest, pimping, sodomy) to forgery, fraud, gambling and blasphemy.<sup>31</sup> However, representativeness is sacrificed for variety: not only are these crimes among the least frequently prosecuted, but the commonest crimes (assault, insult) find no place in Brucker’s picture of Renaissance Florence – a historiographical instance of the ‘law of opposites’ found in modern reporting of crime.<sup>32</sup> The second part of the sensationalist trap lies in allowing an ‘interest in telling spicy tales’ to dominate (as in the work of Guido Ruggiero).<sup>33</sup> ‘Too often’, David Gentilcore has written, ‘social historians, working from criminal records, plunge into the exciting, dramatic world of the depositions without considering their particular tribunal’s effects on shaping their structure and content.’<sup>34</sup> As Claude Gauvard has compellingly argued, historians who have sought out sensational material and described it using impressionistic methods have created and maintained an image of the Middle Ages as *the* age of violence, when latent aggression could suddenly flare up, and when the population lived in constant fear of bandits and highway robbers.<sup>35</sup>

Interest in judicial sources still turns to some degree on the ‘expressive richness and evocative power’ of crime reporting.<sup>36</sup> In one sense, it is difficult entirely to get away from this without deliberately writing dull history. Yet Andrea Zorzi is quite right to be dissatisfied with the existing state of research. Methods have certainly changed over the past fifty years, but they still leave something to be desired. As an example of the episodic and sensational take Pontieri’s depiction of the breakdown of order in mid-fifteenth-

<sup>30</sup> S. Cohn, ‘Criminality and the state in Renaissance Florence, 1344–1466’, *Journal of Social History*, 14 (1980), p. 211.

<sup>31</sup> G. Brucker, *The Society of Renaissance Florence: A Documentary Study* (New York, 1971).

<sup>32</sup> R. Reiner, S. Livingstone and J. Allen, ‘From law and order to lynch mobs: Crime news since the Second World War’, in *Criminal Visions: Media Representations of Crime and Justice*, ed. P. Mason (Cullompton, 2003), p. 15.

<sup>33</sup> As noted in Chojnacki’s review of Ruggiero’s *Boundaries of Eros in Salmagundi*, 72 (1986), pp. 281–3.

<sup>34</sup> Review of Rocke, *Forbidden Friendships*, in *Social History of Medicine*, 11 (1998), pp. 506–7.

<sup>35</sup> Gauvard, *Crime, état et société en France*, pp. 1–2.

<sup>36</sup> Zorzi, ‘Giustizia criminale e criminalità nell’Italia del tardo medioevo’, p. 960.

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century Calabria, which includes pilgrims left hanging naked from trees, criminals summarily slaughtered on a market-place, and friars whose genitals were burned when they failed to pay a prostitute.<sup>37</sup> An improvement on this is the simple counting of categories of crime, following cases through from initiation to conclusion: Verga was one of the first to practise this, on Milanese registers for the period 1385–1429, and later historians repeated the method for places such as Brescia and Sicily.<sup>38</sup> A further advance lay in comparing such elementary calculations with other data. One variety of this is to ask how far judicial practice followed statute law in imposing penalty.<sup>39</sup> Another – adopted by Ruggiero in his study of violence in Venice – is to set different social groups' participation in crime against their proportions in the population, and suggest explanations for the resulting pattern. Yet the debate over Ruggiero's methods has revealed the difficulty of putting this calculation into practice,<sup>40</sup> while his explanations get no further than attributing an assumed class character to behaviour: thus noble violence was related to honour, but for workers and marginals violence was a way of life, not part of a lifestyle, and was motivated by immediate problems in their daily struggle for survival.<sup>41</sup>

As in this case, historians have attempted (in Zorzi's phrase) to identify the ensemble of relations that contextualised criminal behaviour – the socio-economic, the political, the cultural – yet such explanations often remain rather general. The rise in the number of cases in Sicily in the 1480s is said to be due to demographic growth and to social disorder following epidemics and shortages.<sup>42</sup> At Turin, the growth of violence in the fifteenth century was fed, we hear, by immigration, by the student population, and by the presence of the duke and his entourage.<sup>43</sup> General economic conditions at Montone (migration, taxation) created a social climate of insecurity and instability, determining high crime levels.<sup>44</sup> This reference to factors such as plague, famine, migration and taxation, and to elements of the local

<sup>37</sup> E. Pontieri, *La Calabria a metà del secolo XV e le rivolte di Antonio Centelles* (Naples, 1963), pp. 46–7.

<sup>38</sup> E. Verga, 'Le sentenze criminali dei Podestà milanesi 1385–1429', *Archivio storico lombardo*, 3rd ser., 16 (1901); G. Bonfiglio Dosio, 'Criminalità ed emarginazione a Brescia nel primo Quattrocento', *Archivio storico italiano*, 136 (1978); A. Giuffrida, 'Giustizia e società', in *Storia della Sicilia* (10 vols., Naples, 1977–81), vol. 3.

<sup>39</sup> G. S. Pene Vidari, 'Sulla criminalità e sui banni del comune di Ivrea nei primi anni della dominazione sabauda (1313–1347)', *Bollettino storico-bibliografico subalpino*, 68 (1970).

<sup>40</sup> See review by R. Finlay, *Journal of Interdisciplinary History*, 13 (1982–3), pp. 348–9.

<sup>41</sup> G. Ruggiero, *Violence in Early Renaissance Venice* (New Brunswick, 1980), pp. 74, 104, III–12.

<sup>42</sup> Giuffrida, 'Giustizia e società', p. 554.

<sup>43</sup> A. Barbero, 'Gruppi e rapporti sociali', in *Storia di Torino*, vol. 2, *Il basso Medioevo e la prima età moderna (1280–1536)*, ed. R. Comba (Turin, 1977), p. 523.

<sup>44</sup> A. Bei, 'La giustizia penale a Montone alla metà del xiv secolo negli statuti del comune e nei registri giudiziari', *Bollettino della Deputazione di storia patria per l'Umbria*, 93 (1996), p. 64.

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population such as students and courtiers, undoubtedly has some explanatory value, but it usually remains partial and conjectural. The problem is this: modern criminology distinguishes three levels of explanation of crime – the micro (the characteristics and social interactions of individuals), the intermediate (the characteristics of families and communities), and the macro (general economic and cultural conditions, systems of government and law).<sup>45</sup> Because of the nature of the medieval sources, the first two of these levels are largely, if not wholly, out of reach, irrecoverable. Hence the focus on more general causes.

This book does not entirely escape any of these problems in writing the history of crime – some colourful cases are examined, some general explanations are offered – but it does adopt a different approach, one that looks first at the discourses of crime present in five types of documentation, and then at the most important forms of prosecuted crime. The aim is not to argue for a new categorisation of crimes, or to attempt to offer new explanations of crime, but to write about crime in a new way, focusing on attitudes, representations and constructions. The material is first segregated according to type of source, and then integrated according to type of crime. No other study draws on such a range of material or uses it in this way.

In doing this, the chapters that follow aim to address a number of inter-related themes or questions. Is it possible to overcome the often-lamented gulf between legal history and social history, a gulf that reserves ideas and texts to jurists, and facts and records to historians?<sup>46</sup> What happens when we decentre the historiography of crime, moving away from Florence and Venice to other cities and different regimes? Is it possible to identify general or common patterns among the various polities of late medieval Italy? Are modern historians' categories (e.g. 'sex crime') as straightforward as they seem? How did the behaviour in question and its legal and judicial treatment evolve over the period?

It remains to justify the chronological range of this study, and to expound some basic features of the judicial systems of Italy. The period covered is that of the 'later Middle Ages' as commonly understood, in other words, from the late thirteenth century to the end of the fifteenth. It might be wondered whether criminality or criminal justice had any distinctive features in that period. The opening of the period certainly coincides with the proliferation of judicial records, yet the period as a whole witnessed significant changes in how crimes were defined, reported, tried and punished (some of these

<sup>45</sup> M. Morash, *Understanding Gender, Crime and Justice* (Thousand Oaks, 2006), p. 2.

<sup>46</sup> J.-C. Maire Vigueur, 'Giudici e testimoni a confronto', in *La parola all'accusato*, ed. J.-C. Maire Vigueur and A. Paravicini Bagliani (Palermo, 1991), p. 105.