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Everyday crime, criminal justice and gender in early modern Bologna
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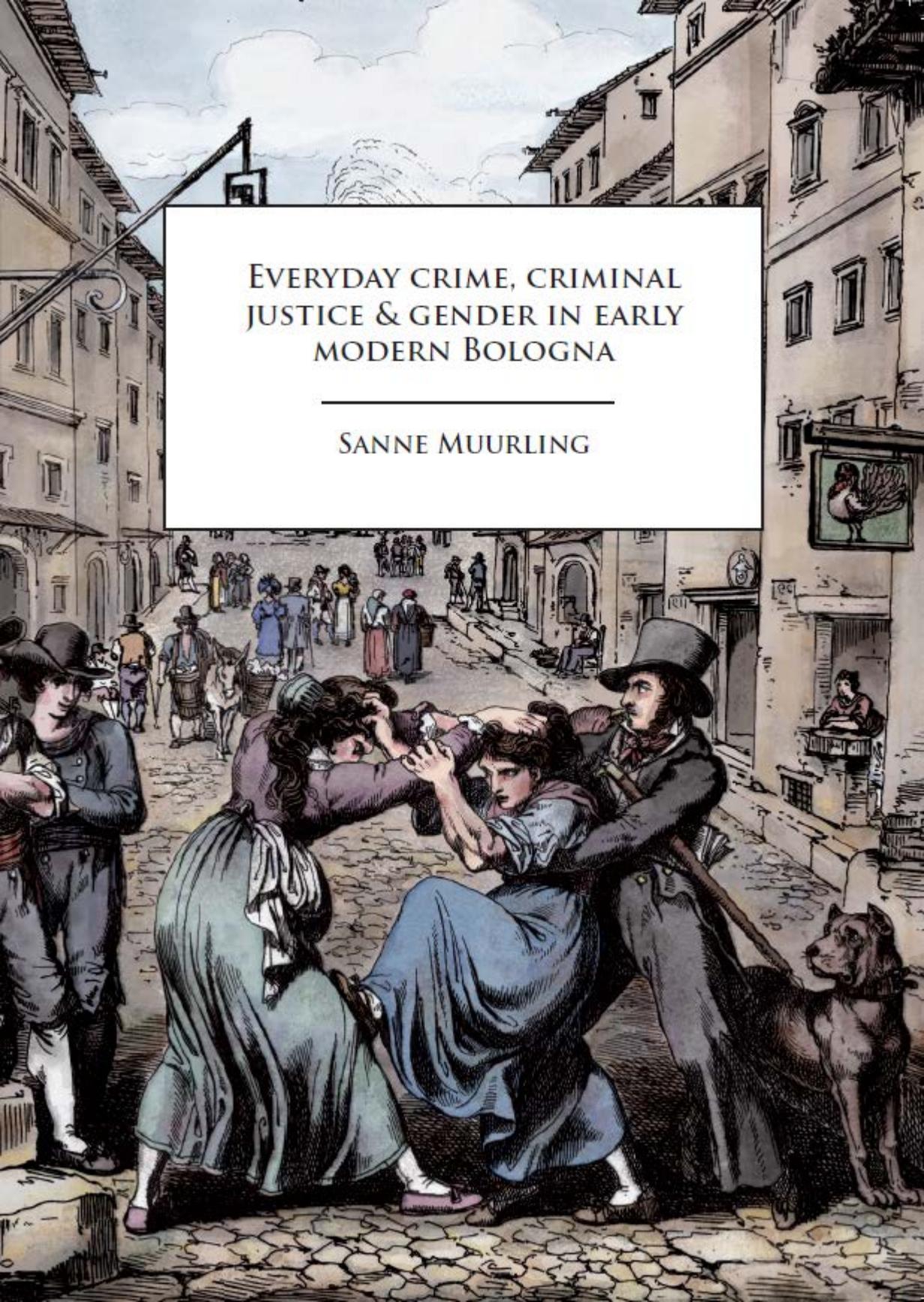
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EVERYDAY CRIME, CRIMINAL
JUSTICE & GENDER IN EARLY
MODERN BOLOGNA

SANNE MUURLING

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Everyday crime, criminal justice and gender in early modern Bologna

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CHAPTER 1. INTRODUCTION

On 5 February 1755, married spinner Barbara Lambertini had to be treated in one of Bologna's hospitals for a serious head wound.¹ Under one of Bologna's many *porticos* near her house she had got into a fight with her neighbour, Ursula Bagliardi, who had been angry with Barbara because Barbara had disciplined Ursula's young daughter for throwing a pebble at her 16-month-old son's face. After hearing about the disciplining, Ursula sought out Barbara and threw a bed warmer still full of fire (*pieno di fuoco*) at her face. Consequently, Barbara ended up with serious and what the surgeon called 'life-threatening wounds' all the way from her mouth to her stomach. Despite the fact that the gravity of the wounds meant that this altercation was formally categorised as a serious crime and subject to a criminal investigation, the case appears to have been halted before a sentence was pronounced.

Cases such as these speak to various particularities of crime and criminal justice in early modern Italy. First, the violence central to many of these cases has caught the attention of scholars who noticed Italy – not rarely as a representative of 'Southern Europe' – for its persistently high rates of violence all throughout the early modern period and its comparatively late decline.² Second, the fact that no sentence was recorded alludes to the pervasive culture and judicial indulgence of reconciliation. While criminal by-laws officially prescribed harsh sentences, the goal was often to reconcile the two parties, to reintegrate the culprit into society and to re-establish social peace. According to some scholars, the resulting very moderate deterrent power of the judicial system actually contributed to Italy's particularly violent culture.³

A far less expected fact from a historiographical perspective was that the perpetrator of this aggression was a woman. After all, cases such as these are in stark contrast to the constraints, seclusion and enclosure of demure southern women's lives often emphasised in general discussions or syntheses.⁴ Especially when contrasted to a 'freer' northern culture, the strict gender norms as well as Italy's persistent honour culture appear to have left little normative space for women's agency, whether legal or illegal. This oversimplified

1 Archivio di Stato di Bologna (hereafter ASBo), Tribunale del Torrione (hereafter Torrione), Atti e processi, 8166-2, fasc. 50.

² M. Eisner, 'Long-term historical trends in violent crime', *Crime and justice* 30 (2003) 83-142.

³ D. Boschi, 'Knife fighting in Rome, 1845-1914', in P. Spierenburg (ed.), *Men and violence. Gender, honor and rituals in modern Europe and America* (Columbus: Ohio State University Press, 1998) 150-153, especially 152.

⁴ For a good overview of the interpretations of various sources that have led to these assumptions, see E.S. Cohen, 'To pray, to work, to hear, to speak: Women in Roman streets, c.1600', *Journal of early modern history* 12 (2008) 292-293.

characterisation has been subject to substantial criticism from scholars of Italian history, not in the least place because what women *should* not do does not necessarily represent what women *could* or *did* not do.

Recorded crimes attest to the discrepancy between norms and practice by their very nature, yet the criminal endeavours of Italian women have to this day received little scholarly scrutiny. This is despite the wealth of sources available as well as the evidence for several important differences in recorded crimes between Italy and other parts of Europe – not only for men but also for women. This book about women’s crimes in early modern Bologna therefore seeks to address the gendered dynamics of their crimes and their treatment by the criminal court. In this introductory chapter it is the state of historical research that is examined: what has scholarship taught us about women in crime in early modern Europe and how has Italian scholarship engaged with this topic? It also looks at Bologna as a case study to ask: how do its legal and socio-economic factors explain the patterns of female involvement in recorded crime?

Historical involvement of women in crime in early modern Europe

The roots of current studies of women’s historical involvement in crime must be sought in the late 1970s and 1980s. Influenced by the ‘new social history’, two new disciplines emerged alongside one another: modern criminal justice history and women’s history.⁵ Though initially not in an integrated manner, these disciplines introduced a focus both on the impact of criminal justice processes on daily life and on the lived experiences and on women as important historical actors. With the notable exception of scholars such as John Beattie and Barbara Hanawalt, historians of crime have for a long time paid little attention to women’s involvement in crime.⁶ If it was discussed, it was either as victims of crime or in the context of women’s involvement in what were labelled ‘female’ crimes, such as witchcraft, infanticide and scolding.⁷ The prevalent focus on discerning long-term trends through the quantitative method among crime historians in England, France, Germany and Holland

⁵ P. Knepper, *Writing the history of crime* (Bloomsbury: London/New York, 2016) 173; M.L. Arnot and C. Usborne, ‘Why gender and crime? Aspects of an international debate’, in: M.L. Arnot and C. Usborne (eds.), *Crime and gender in modern Europe* (London: UCL Press, 1999) 3; G. Walker and J. Kermode, ‘Introduction’, in: J. Kermode and G. Walker (eds.), *Women, crime and the courts in early modern England* (New York and London 1994) 1-2; P. Lawrence, ‘The historiography of crime and criminal justice’ in P. Knepper and A. Johansen (eds.), *The Oxford Handbook of the History of Crime and Criminal Justice* (Oxford University Press, 2016) 18.

⁶ J.M. Beattie, ‘The criminality of women in eighteenth-century England’, *Journal of social history* 8:4 (1975) 80-116; B. Hanawalt, ‘The female felon in fourteenth-century England’, *Viator* 5 (1974) 253-268.

⁷ For a discussion of this historiography, see Walker and Kermode, ‘Introduction’, 5-6.

undoubtedly contributed to the lack of attention for women as criminal actors.⁸ After all, statistically women generally only constituted a minority of individuals who were officially prosecuted by criminal courts.

This traditional approach to crime history has been increasingly criticised from the 1990s onwards, particularly for its inability to enhance our understanding of the nature of women's criminality in the past. Of particular importance was Jenny Kermode and Garthine Walker's *Women, crime and the courts in early modern England* from 1994. In the introduction of this edited volume, Walker and Kermode argue that the emphasis on the quantification of a particular type of source material (the indictments) has led to women "being duly counted and then discounted" due to their statistical insignificance.⁹ In their eyes, this unjustly denied agency to women as historical actors in the legal process, particularly because other types of approaches and sources revealed that were far less passive than traditional interpretations allowed. More and more scholars incorporated cultural approaches analysing the discourses, perceptions, representation and narratives concerning women's behaviours in early modern Europe. Various important German scholars have, for example, revealed women as active users of justice, and demonstrated how women were able to employ expectations surrounding gender norms to further their cases before criminal and ecclesiastical courts.¹⁰

Since then several social histories of women and crime in England, France, Germany and Holland have furthermore shown that different choices of the sources reveal considerably higher proportions of women in crime before the twentieth century, especially when the lower courts are considered.¹¹ For various towns in early modern Holland, for example, it has been calculated that women made up around 30 per cent of the criminal

⁸ A good review of this literature is offered by A. Schmidt and M. Pluskota, 'Gevaarlijke vrouwen, gewelddadige mannen? Een review van het historisch onderzoek naar criminaliteit en gender in Europese steden, 1600-1900', *Stadsgeschiedenis* 8:1 (2013) 61; Walker and Kermode, 'Introduction', 4.

⁹ Walker and Kermode, 'Introduction', 4.

¹⁰ J. Eibach, 'Böse Weiber und grobe Kerle. Delinquenz, Geschlecht und soziokulturelle Räume in der frühneuzeitlichen Stadt' in A. Blauert and G. Schwerhoff (eds.), *Kriminalitätsgeschichte. Beiträge zur Sozial- und Kulturgeschichte der Vormoderne* (UVK Universitätsverlag Konstanz, 2000) 672; H.R. Schmidt, 'Hausväter vor Gericht. Der Patriarchalismus als zweischneidiges Schwert' in M. Dingens (ed.), *Hausväter, Priester, Kastraten. Zur Konstruktion von Männlichkeit in Spätmittelalter und Früher Neuzeit* (Göttingen: Vandenhoeck & Ruprecht, 1998) 213-236. For a comparable argument made by a scholar of Italian history, see J.M. Ferraro, *Marriage wars in late Renaissance Venice* (Oxford 2001) 157.

¹¹ M.M. Feeley and D. Little, 'The vanishing female: The decline of women in the criminal process, 1687-1912', *Law & society review* 25:4 (1991) 719-757; R. Jütte, 'Geschlechtsspezifische Kriminalität im Späten Mittelalter und in der Frühen Neuzeit', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 108 (1991) 93; J.M. Kamp, 'Female crime and household control in early modern Frankfurt am Main', *The history of the family* 21:4 (2016) 640; M. van der Heijden, 'Criminaliteit en sexe in 18e-eeuws Rotterdam', *Tijdschrift voor sociale geschiedenis* 21:1 (1995) 1-36.

offenders and occasionally even reached levels as high as 50 per cent.¹² Similarly, in seventeenth- and eighteenth-century Frankfurt and Surrey, women accounted for 22 and 21 per cent respectively of all suspects investigated.¹³ Examinations furthermore revealed significant differences between rural and urban areas: shares of female crime were much higher in cities.¹⁴ This has prompted scholars to consider which elements or characteristics of the urban environment engendered criminal behaviour or prosecution. In a more general sense notions that women were ‘naturally’ less likely to commit crimes than men and that gender differences were static over time have increasingly been discredited.¹⁵

In Italy interest in the social history of the criminal court also emerged during the 1980s, developing in a strong dialogue with the micro-historical approach. This, for one, meant that the quantitative method did not gain a lot of ground among Italian scholars. Responding to the dominant institutional historiography that examined power structures through the actions of jurists and magistrates, micro-historians focussed on the networks of relationships within social groups through accounts of single crimes. In their eyes, a focus on aggregate trends, large-scale processes and overarching categories and groups was unable to grasp these complexities.¹⁶ Emblematic for the development of Italian crime history was the important discussion between Edoardo Grendi and Mario Sbriccoli during the 1980s and 1990s, both strongly advocating other approaches than a quantitative one. In a range of articles and special issues of *Quaderni Storici*, Grendi proposed a qualitative, socio-cultural approach to criminal court records that allowed individual or comparable groups of cases to be understood within their specific contexts.¹⁷ A year later Sbriccoli warned against a naive understanding of these sources as reflections of criminality. Rather, because they are historical products of law, they should be seen not as reflecting histories of criminality but as

¹² M. van der Heijden, *Women and crime in early modern Holland* (Leiden: Brill, 2016) 4-9; M. van der Heijden, ‘Women and Crime 1750-2000’ in P. Knepper and A. Johansen (eds.), *The Oxford Handbook of the History of Crime and Criminal Justice* (Oxford University Press, 2016) 251-252.

¹³ Kamp, ‘Female crime and household control’, 536; Beattie, ‘The criminality of women’, 81.

¹⁴ Beattie, ‘The criminality of women’, 80-116; N. Castan, *Les criminels de Languedoc. Les exigences d’ordre et les voies du ressentiment dans un société pré-révolutionnaire (1750-1790)* (Toulouse: Association des publications de l’université de Toulouse-Le Mirail, 1980) 27; Van der Heijden, *Women and crime*, 17-18; P. King, *Crime and law in England, 1750-1840* (Cambridge University Press, 2006) 207-208.

¹⁵ For an overview of this literature, see M. van der Heijden and A. Schmidt, ‘Theorizing crime and gender in long term perspective’, in E.M. Dermineur, A.K. Sjögren and V. Langum (eds.), *Revisiting gender in European history, 1400-1800* (Routledge: New York, 2018) 52-77; Schmidt and Pluskota, ‘Gevaarlijke vrouwen, gewelddadige mannen?’, 60-77.

¹⁶ As concluded by C. Casanova, *Crimini nascosti. La sanzione penale dei reati “senza vittima” e nelle relazioni private (Bologna, XVII secolo)* (Bologna: CLUEB, 2007) 16; M. Cavarzere, ‘At the crossroads of feud and law: Settling disputes in early modern Tuscany’, in: S. Cummins and L. Kounine (eds.), *Cultures of conflict resolution in early modern Europe* (Surrey: Ashgate, 2016) 52-53.

¹⁷ E. Grendi, ‘Premessa’, *Quaderni Storici* 66:3 (1987) 696.

measures of criminal justice.¹⁸ Grendi, in turn, refuted such a reduction of the criminal court sources. He contended that the criminal court records were not only the product of the central authorities' concerns but also of other forms of social control by individuals and the wider community, especially when taking the different (earlier or lower) levels and facets of the criminal justice process into consideration. As such, in his opinion, recorded crime was formed both by criminal justice *and* social relations.¹⁹

Although Grendi argued that the criminal court records could be employed to better understand the relations between, for example, different age groups and genders, a historiographical cross-fertilisation between crime history and women's history is largely lacking in Italian scholarship up to the present day.²⁰ The image of pre-modern Italian criminality and criminal justice is dominated by the topics of violence by the nobility and rural banditry. Viewed as crimes against the Pope's sovereignty, these violent behaviours were regarded major scourges throughout the early modern period.²¹ The prevalence of these violent behaviours is often connected to the important role of an honour culture and notions of masculinity in pre-modern Italy. In such an honour-based culture, one's honour was public property and violence was considered both legitimate and sometimes obligatory to assert, defend and win masculine honour and escape shame.²² The process of state formation constitutes another important framework towards understanding these violent phenomena, as archaic patterns collided with the states' new ambitions and strengthening judicial institutions.²³ Women are traditionally viewed as having a limited (and mainly passive) role in either of these contexts. It is therefore hardly surprising that a recent historiographical assessment of early Italian modern criminal justice stated that "the complexities of the relationship between the world of women and criminal justice are still to be uncovered."²⁴

¹⁸ M. Sbriccoli, 'Fonti giudiziarie e fonti giuridiche. Riflessioni sulla fase attuale degli studi di storia del crimine e delle giustizia criminale', *Studi Storici* 29:2 (1988) 494.

¹⁹ E. Grendi, 'Sulla <<storia criminale>>: Risposta a Mario Sbriccoli', *Quaderni Storici* 73 (1990) 270.

²⁰ Grendi, 'Premessa', 699; L. Tedoldi, *La spada e la bilancia. La giustizia penale nell'Europa moderna (secc. XVI-XVIII)* (Rome: Carocci editore, 2008) 128. A notable exception is the work of Trevor Dean, who has published several articles on gender dynamics of particular crimes. See, for example, T. Dean, 'Theft and gender in late medieval Bologna', *Gender & History* 20:2 (2008) 399-415; T. Dean, 'Gender and insult in an Italian city: Bologna in the later middle ages', *Social history* 29:2 (2004) 217-231.

²¹ I. Fosi, *Papal justice. Subjects and the courts in the Papal State, 1500-1750* (Washington 2011) 79; E.S. Cohen and T.V. Cohen, *Daily life in Renaissance Italy* (Westport/London: Greenwood Publishing Group, 2001) 49.

²² S. Carroll, 'Introduction' in S. Carroll (ed.), *Cultures of violence. Interpersonal violence in historical perspective* (Basingstoke: Palgrave, 2007) 23, 27; J.C. Wood, 'Conceptualizing cultures of violence and cultural change' in: S. Carroll (ed.), *Cultures of violence. Interpersonal violence in historical perspective* (Blasingstoke: Palgrave, 2007) 87.

²³ Fosi, *Papal justice*, 79.

²⁴ Tedoldi, *La spada e la bilancia*, 128.

Compared to other parts of early modern Europe, Italian scholarship has thus paid scant attention to women's involvement in crime and criminal justice. When discussed, two assumptions have taken centre stage: first, the low levels at which Italian women were involved in crime and second, the specific character of their crimes. To begin with the first notion, Elisabeth Crouzet-Pavan summarised in an important reference work on women and gender in social history that Italian women are believed to have had a marginal criminal presence and are therefore commonly overlooked in the study of crime.²⁵ This notion resonates with much of the older English-language scholarship on other regions in the early modern period, which has also been accused of discounting women as offenders.²⁶ However, while the studies on several regions and major cities across northern Europe have demonstrated that female involvement in crime during the early modern period was most likely significantly higher than in earlier and later periods, there is little evidence so far that this trend is applicable to early modern Italy. Recently, the work of Giancarlo Angelozzi and Cesarina Casanova on Bologna's criminal court has suggested comparatively low shares of women of around 10 per cent throughout the whole of the early modern period.²⁷ Several disparate local samples of other Italian towns such as Rome, Siena and Prato do not contradict these impressions.²⁸ The backgrounds of these comparatively low shares have remained unexplored. However, as research is continuing to show that crime shares varied over time and place, it has become clear that the structures and circumstances that influenced variation should be subject to a more systematic and long-term scrutiny.

This discrepancy between women's involvement in crime in Italy and elsewhere in Europe gives rise to broader questions about its causes. In his assessment of criminal justice and crime in sixteenth-century Florence, John Brackett argued that a combination of the ethics of honour, gender roles and restricted political and economic opportunities "militated against women being equal partners with men in crime."²⁹ Some research furthermore suggests a deterioration of the scope of women's action from the medieval period onwards.

²⁵ Similarly, Leonida Tedoldi has recently argued that "the complexities of the relationship between the world of women and criminal justice are still to be uncovered." E. Crouzet-Pavan, 'Crimine e giustizia' in G. Calvi (ed.), *Innesti. Donne e genere nella storia sociale* (Rome: Viella, 2004) 56; Tedoldi, *La spade e la bilancia*, 128.

²⁶ G. Walker, *Crime, gender and social order in early modern England* (Cambridge University Press, 2003) 4.

²⁷ G. Angelozzi and C. Casanova, *Donne criminali. Il genere nella storia della giustizia* (Bologna 2014) 68.

²⁸ C. Vasta, Criminal women. Women's violence in sixteenth and seventeenth-century Rome (Unpublished Conference paper 61th Annual Meeting of the RSA, Berlin, 26-28 March 2015) 6; L.C. Sardi, 'Analisi statistica sulla criminalità nel 1700 (reati e pene) con riguardo allo Stato senese', in L. Berlinguer and F. Colao (eds.), *Criminalità e società in età moderna* (Milan: Giuffrè, 1991) 396, 439;

²⁹ J.K. Brackett, *Criminal justice and crime in late Renaissance Florence, 1537-1609* (Cambridge University Press, 1992) 134; D. Zuliani, 'Reati e pene nel vicariato di Prato prima e dopo la <<Leopoldina>> (1781-1790)', in L. Berlinguer and F. Colao (eds.), *Criminalità e società in età moderna* (Milan: Giuffrè, 1991) 312.

Notably, Samuel Cohn contended that the decline in the number and share of women that found themselves accused of crime before Florence's fourteenth- and fifteenth-century criminal court reflected the newly introduced social and legal constraints on women's ability to perform public roles, commit crimes and gain access to justice.³⁰ While the notion that Italian women were increasingly worse off readily captures the imagination, there is insufficient data on other regions and on subsequent periods to make such inferences. More scrutiny of the specific legal and socio-economic contexts of Italian towns is necessary to uncover what engendered Italian women's comparatively low involvement in recorded crime.

Alongside the shares of female crime, another important terrain of recent historiographical revision pertains to the assumed specific character of women's crimes. Such acts as infanticide, sexual deviance and witchcraft have traditionally figured prominently in the discussion of women's crimes. In Italian scholarship these topics have predominantly been approached from a micro-historical perspective to tell the stories of individual women's dealings with the criminal court.³¹ While this approach is interesting in its own right, it has not engendered a systematic scrutiny of the relationship between women, gender dynamics and the criminal court found elsewhere in Europe.³² Importantly, in English-language historiography the traditional characterisation of crimes like infanticide, witchcraft and prostitution as distinct 'feminine crimes' has been nuanced. Walker and others contested this notion, contending that these supposedly feminine crimes were neither typical of female behaviour nor of the criminal prosecutions of women.³³ Various studies have since then emphasised that women in fact participated in most categories of crime and

³⁰ S.K. Cohn, 'Women in the streets, women in the courts, in early Renaissance Florence', in: S.K. Cohn (ed.), *Women in the streets. Essays on sex and power in Renaissance Italy* (Baltimore 1996) 24, 29.

³¹ T. Dean, *Crime and justice in late medieval Italy* (Cambridge University Press, 2007) 1. For a good example of insightful micro historical accounts based on trials, see T.V. Cohen, *Love and death in Renaissance Italy* (University of Chicago Press, 2004); E.S. Cohen and T.V. Cohen, *Words and deeds in Renaissance Rome trials before the papal magistrates* (University of Toronto Press, 1993); E. Muir and G. Ruggiero (eds.), *History from crime* (Baltimore: John Hopkins University Press, 1994) and the special issue of *Quaderni Storici*: 'Difendersi in tribunale', 47:3 (2012).

³² M.L. Arnot and C. Osborne (eds.), *Crime and gender in modern Europe* (London: UCL Press, 1999); D. Palk, *Gender, crime and judicial discretion, 1780-1830* (Woodbridge, Suffolk: Boydell Press, 2006); Walker, *Crime, gender and social order*; Van der Heijden *Women and crime*; U. Rublack, *The crimes of women in early modern Germany* (Oxford University Press, 1999).

³³ Walker, *Crime, gender and social order*, 4; M. van der Heijden, 'Women, violence and urban justice in Holland, 1600-1838', *Crime, history & societies* 17:2 (2013) 72; A.M. Kilday, *Women and violent crime in Enlightenment Scotland* (Woodbridge: Boydell Press, 2007); J. Hurl-Eamon, *Gender and petty violence in London, 1680-1720* (Columbus: Ohio State Press, 2005); O. Ruitenbeek, 'Niet zonder kleerscheuren. Criminaliteitspatroon, eergevoel en het gebruik van fysiek geweld door Amsterdamse volkswomen, 1811-1838', *Jaarboek Amstelodamum* 102 (Amsterdam 2010) 62-85; K. Jones, *Gender and petty crime in late medieval England. The local courts in Kent, 1450-1560* (Suffolk: The Boydell Press, 2006) 8.

that they were far more likely to take part in non-‘feminine’ offences such as theft and violence.

The disparate evidence from the medieval period onwards implies that on the Italian peninsula the crimes of men and women also cannot be understood as a binary dichotomy. For late medieval Bologna, Trevor Dean suggested that the real difference between the crimes of men and women was quantitative rather than qualitative.³⁴ For Renaissance Florence Cohn has, for example, demonstrated that while women were indeed disproportionately accused of crimes of immorality compared to men, they made up only one-eighth of their total caseload.³⁵ These types of cases were thus by no means representative of women’s crimes. As has been found for towns elsewhere in Europe, the overall image of the crimes of women that came before this Florentine tribunal was that they were more similar than different from those of their male counterparts.

Interestingly, however, there also appear to have been significant differences in the types of crimes that filled up the criminal courts’ dockets throughout Europe. For Renaissance Florence, like sixteenth-century Rome and early modern Bologna, studies indicate that (physical) violence constituted the most important category of offences that came before the criminal courts.³⁶ This not only contradicts the normative notions that restricted aggression to men, but also runs counter to what is known for much of northern Europe, where theft and other property offences provided the bulk of criminal prosecutions for both male and female offenders.³⁷ However, while acts of violence were dominant especially in the earlier stages of the criminal process, the early modern Bolognese criminal court records indicate that property offences increased in importance at the level of the criminal prosecutions, especially for female offenders. This discrepancy reflected the different interests of the various parties involved in the criminal process. A closer examination of the structures and circumstances that influenced variation across time and space is thus imperative to understand Italian women’s involvement in recorded crime.

³⁴ T. Dean and K. Lowe, ‘Writing the history of crime’, in: T. Dean and K. Lowe (eds.), *Crime, society and the law in Renaissance Italy* (Cambridge 1994) 4; T. Dean, *Crime in medieval Europe 1200-1550* (Harlow: Longman, 2001) 77-78; Dean, ‘Theft and gender’, 405.

³⁵ Cohn, ‘Women in the streets, women in the courts’, 26.

³⁶ P. Blastenbrei, *Kriminalität in Rom 1560-1585* (Tübingen: Niemeyer, 1995) 284; Vasta, *Criminal women*, 6; Angelozzi and Casanova, *Donne criminali*, 73, 79.

³⁷ D.J. Noordam, ‘Strafrechtspleging en criminaliteit in Delft in de vroeg-moderne tijd’, *Tijdschrift voor sociale geschiedenis* 15 (1989) 228; *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, March 2015), Tabulating offence category, between 1674 and 1800. Counting by defendant; G. Schwerhoff, *Historische Kriminalitätsforschung* (Frankfurt/New York: Campus Verlag, 2011) 116.

Crime, criminal justice and gender in an early modern Italian city

Compared to the dominant historiography on women's crimes in pre-modern northern European towns, the Italian case distinguishes itself in two prominent ways. The first characteristic feature is the comparatively low share of Italian women among formally investigated offenders that appears to persist throughout the early modern period. The second characteristic relates to the types of cases that came before the court and, in particular, the prominence of violence rather than property offences. So far little scholarly attention has been paid to the various striking ways in which the Italian case stands out compared to many other, better-examined regions in early modern Europe, especially in relation to gender. This book builds on the current scholarship by providing an in-depth examination of the gender dynamics of recorded crime in early modern Bologna. Informed by the findings from social histories of crime and gender outside of Italy, it firstly aims to identify the gendered characteristics of recorded crime in Bologna and, secondly, to explain them. The main question that it seeks to address is: how did legal and socio-economic factors shape the patterns of female involvement in crime as recorded by Bologna's early modern *Tribunale del Torrione*?

This book hypothesises that women's crimes broadly adhered to broader 'regional' patterns of crime and criminal justice that were culturally determined and were consequently by and large shared between male and female offenders. Although violence was considered a regular feature of everyday life among many pre-modern Western societies, *antico regime* Italy has been described as particularly violent.³⁸ Although this 'culture of violence' is often portrayed as an essentially masculine endeavour, violent encounters featured prominently in the criminal proceedings against both sexes. It can therefore be argued that men and women were part of the same culture that dictated a violent response to certain challenges and that they merely did so at different rates and perhaps under different circumstances.³⁹ Furthermore, a semi-institutionalised culture of peace-making through the criminal court drew many of these everyday violent conflicts before criminal courts and therefore in the archived casebooks. Although the importance and repercussions of the culture of violence and reconciliation in pre-modern Italy have received

³⁸ J. Davies, 'Introduction', in: J. Davies (ed.), *Aspects of violence in Renaissance Europe* (Surrey: Ashgate, 2013) 1; Blastenbrei, *Kriminalität in Rom*, 284; M. Calzolari, 'Delitti e castighi' in: M. Calzolari, M. Di Sivo and E. Grantaliano (eds.), *Giustizia e criminalità nello stato pontificio* (Rome: Gangemi Editore, 2001) 55.

³⁹ A similar argument was made by Trevor Dean for medieval Europe, see Dean, *Crime in medieval Europe*, 77.

significant historiographical attention, the roles and positions of women in this culture have not been subject to much scrutiny – something that will be addressed here.

On the other hand, this book suggests that the gendered socio-economic and legal regime in which a crime was committed and adjudicated also generated important differences between men and women within Bologna. First, it impacted the overall share of female involvement and, second, it brought about more qualitative differences between the characteristics of the recorded crimes of male and female offenders. While the overall pattern of crime may have been more similar for men and women than was previously believed, the nature of the public lives of men and women, their labour opportunities and social relationships did to a certain extent determine the extent to which, why, how and when crimes were committed. The municipal decrees of many early modern Italian towns, for example, included an official curfew for (unescorted) women after sunset's *Ave Maria* bell, which undoubtedly affected their mobility – at the very least in a normative sense – and possibly their opportunities for night-time offending.⁴⁰ Aside from different actual social practices, gender norms could furthermore result in biased criminal procedures.⁴¹ In pre-modern Europe expectations regarding women's less criminal and more law-abiding nature could at times lead to leniency in sentencing, while there are also examples where certain behaviours by women (particularly in the moral and religious context) were subject to more rigorous control.⁴² In Roman law, the notion of the *fragilitas* or *infirmitas sexus* – which in the interpretation of Renaissance jurists likened a woman's legal capacity to that of a child or handicapped person – also provided ample space for judicial discretion on the Italian peninsula.⁴³

An issue of particular importance to the understanding of early modern women's involvement in recorded crime is early modern Italy's legal culture. In an important article on the approach of gender history in relation to criminal justice, the legal historian Mario Sbriccoli attributed the (assumed, not examined) relative absence of women in recorded

⁴⁰ Cohen, 'To pray, to work, to hear, to speak', 303.

⁴¹ R.B. Shoemaker, *Gender in English society 1650-1850. The emergence of separate spheres?* (London: Longman, 1998); L. Zedner, *Women, crime and custody in Victorian England* (Oxford: Clarendon Press, 1991); G. Schwerhoff, *Köln im Kreuzverhör: Kriminalität, Herrschaft und Gesellschaft in einer frühneuzeitlichen Stadt* (Bonn: Bouvier, 1991); Rublack, *The crimes of women*; Palk, *Gender, crime and judicial discretion*; P. King, *Crime and law in England, 1750-1840* (Cambridge University Press, 2006).

⁴² Schmidt and Pluskota, 'Gevaarlijke vrouwen, gewelddadige mannen?', 66.

⁴³ T. Kuehn, 'Daughters, mothers, wives and widows. Women as legal persons', in: A. Jacobson Schutte, T. Kuehn and S. Seidel Menchi (eds.), *Time, space and women's lives in early modern Europe* (Kirkville: Truman State University Press, 2001) 99; M. Graziosi, "'Fragilitas sexus". Alle origine della costruzione giuridica dell'inferiorità delle donne', in: N.M. Filippini, T. Plebani and A. Scattigno (eds), *Corpi e storia. Donne e uomini dal mondo antico all'età contemporanea* (Rome: Viella, 2002) 20

crime in Italy to the workings of the legal system.⁴⁴ He argued that the law and the criminal justice system were essentially masculine until the twentieth century. Not only was the criminal justice system based on male behaviours, it also actively categorised many of women's deviant behaviours (described by Sbriccoli as obscene behaviours, fornication and concubinage, as well as petty crimes) as matters of sin, disorder, irregularity or censorable anomalies – rather than behaviours subject to criminal justice.⁴⁵ Accordingly, he argued that women's criminality in Italy was thus largely 'absorbed' into the mesh of extrajudicial control systems: ranging from the household to the neighbourhood, to the church and a range of semi-charitable institutions that connected spheres of control for women at the fringes of society. The same has been argued for early modern Germany but runs counter to that in early modern Holland, where moral offences were subject to secular criminal prosecution.⁴⁶

The practical and day-to-day mechanisms that have led to Italian women's comparatively low crime shares have however largely remained unscrutinised. In a broader European sense there is a growing body of evidence that testifies to the importance of investigating other legal forums, institutions and arenas of social control.⁴⁷ Nevertheless, the criminal court records often constitute a pivotal point of departure to trace female offenders and their treatment in a society. For early modern Italy, the few works that touch upon the relationship between crime and gender also illustrate that the criminal court provides a fruitful starting point for this scrutiny. In a recent article Cesarina Casanova has, for example, convincingly argued that female offenders in early modern Bologna were often met with a certain judicial paternalism which, rooted in the notion of women's legal minority and all-encompassing subordination, could result not only in lesser sentencing but also in not being prosecuted at all.⁴⁸ Although she did not indicate how often this occurred, it nevertheless reveals one of the ways in which female offenders could 'vanish' from the criminal court records.

It was not only the magistrates' judicial paternalism that led to the relative invisibility of women among recorded crime in early modern Italy. Another aspect of Italy's legal

⁴⁴ M. Sbriccoli, "'Deterior est condicio foeminarum'". La storia della giustizia penale alla prova dell'approccio di genere', in: G. Calvi (ed.), *Innesti. Donne e genere nella storia sociale* (Rome: Viella, 2004) 81.

⁴⁵ *Ibidem*, 83-84.

⁴⁶ H. Wunder, "'Weibliche Kriminalität' in der Frühen Neuzeit. Überlegungen aus der Sicht der Geschlechtergeschichte' in O. Ulbricht (ed.), *Von Huren und Rabenmüttern. Weibliche Kriminalität in der Frühen Neuzeit* (Cologne: Böhlau, 1995) 41-44; Van der Heijden, *Women and crime*, 98-127.

⁴⁷ Schmidt and Pluskota, 'Gevaarlijke vrouwen, gewelddadige mannen?', 63.

⁴⁸ C. Casanova, 'Crimini di donne, giudici benevoli (Bologna XVI-XVIII secolo)', *Historia et ius* 9 (2016) 1-11; Angelozzi and Casanova, *Donne criminali*.

culture that contributed to this outcome was the importance of peace-making – a practice that I argue actually granted women a significant deal of agency. The integral role of reconciliation and conflict resolution for the functioning of early modern Italian criminal courts is widely recognised, though it rarely takes women into account, whether as defendants or plaintiffs.⁴⁹ As will be argued, litigation provided women with real leverage in the negotiation of their everyday conflicts among their peers regardless of the judicial paternalism they could face from the magistrates. It was a composite of these diverse elements from the same system that ‘withdrew’ women from the criminal justice process and produced a specific pattern of female involvement in recorded crime in early modern Italian towns like Bologna.

The city of Bologna offers a fruitful setting for an analysis of these gender dynamics in crime and criminal justice. As a provincial capital, Bologna was the second largest city in the Papal States after Rome and served as an important economic, cultural and administrative centre for both the city itself and its surrounding 4,000 square kilometres of surrounding countryside.⁵⁰ While being home to one of Europe’s oldest universities, Bologna, like many other Italian towns, relied economically on its textile industry that employed large segments of the urban population, about half of whom were women.⁵¹ Compared to the more frequently studied Florence and Venice that are seen as opposites in the spectrum of women’s scope of action (Florence representing the most restrictions and Venice the least), Bologna probably falls somewhere in the middle in terms of social and economic resources.⁵² Women’s legal capacity was normatively and culturally circumscribed by interpretations of Roman law in Bologna like elsewhere on the Italian peninsula, but there is little evidence to assume that local statutes were as restrictive as, for example, in Florence.⁵³ Moreover, recent social historical works have indicated that most non-elite Italian women – despite the dowry system and their limited legal capacity – were in practice active

⁴⁹ For an excellent summary of the intertwined nature of criminal justice and conflict resolution from the medieval period onwards, see S.R. Blanshei and S. Cucini, ‘Criminal justice and conflict resolution’ in S.R. Blanshei (ed.), *A companion to medieval and Renaissance Bologna* (Leiden: Brill, 2018) 335-360

⁵⁰ G. Angelozzi and C. Casanova, *La giustizia in una città di antico regime. Il tribunale del Torrione di Bologna (secc. XVI-XVII)* (Bologna: CLUEB, 2008) 111-115.

⁵¹ A. Guenzi, ‘L’identità industriale d’una città e del suo territorio’, in: A. Prosperi (ed.), *Storia di Bologna nell’età moderna (secoli XVI-XVIII)* (Bologna: Bononia University Press, 2008) 464-465.

⁵² T. Kuehn, ‘Gender and law in Milan’, in A. Gamberini (ed.), *A companion to late medieval and early modern Milan. The distinctive features of an Italian state* (Leiden/Boston: Brill, 2015) 406-407.

⁵³ According to Shona Kelly Wray, there was for example no legal requirement of a *mundualdus* (male guardian) for women to draw up a legal contract in Bologna as there was in Florence. S.K. Wray, *Communities in crisis. Bologna during the Black Death* (Brill: Leiden, 2009) 15.

in most arenas of social and economic public life.⁵⁴ As plaintiffs, witnesses and defendants, and occasionally representing their male family members, women also appear in the records of Bologna's early modern criminal court (the *Tribunale del Torrione*).⁵⁵ The functioning of this criminal court, its procedures and reforms throughout the early modern period have been documented in various detailed works based on normative, legislative and trial sources.⁵⁶ As one of Italy's many textile towns with one of most long-term, best-preserved criminal court archives both within and outside of Italy, Bologna provides an opportune setting to trace women's involvement in criminal behaviour throughout the judicial process.⁵⁷

The principal period under investigation in this book is the seventeenth and eighteenth centuries. Recently designated the 'no longer forgotten centuries', this period has been underrepresented in Italian scholarship, which has traditionally concentrated heavily on the Renaissance.⁵⁸ In relation to women, an important and on-going subject of debate has been the question of whether or not women's legal, social and economic positions declined after the Middle Ages.⁵⁹ Various works, particularly those on Florence, tended to paint a rather bleak picture of the increasing restrictions imposed on women in the light of a reorganizing society. The Florentine legal requirement to be represented in court by a guardian (*mundualdus*) has for example been linked to women's reduced ability to access the criminal court and to perform public roles from the fourteenth century onwards.⁶⁰ Although this decline theory has continued to shape dominant conceptions of pre-modern Italy – also for the centuries after the Renaissance – it has become clear that the Renaissance Florentine

⁵⁴ A. Bellavitis, *Il lavoro delle donne nelle città dell'Europa moderna* (Viella: Rome, 2016) 8; A. Groppi, 'A matter of fact rather than principle. Women, work and property in papal Rome (eighteenth-nineteenth centuries)', *Journal of modern Italian studies* 7:1 (2002) 46; Kuehn, 'Gender and law in Milan', 406; E.S. Cohen, 'Open city. An introduction to gender in early modern Rome', *I Tatti studies in the Italian Renaissance* 17:1 (2014) 44, 48;

⁵⁵ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 463.

⁵⁶ Ibidem; G. Angelozzi and C. Casanova, *La giustizia criminale a Bologna nel XVIII secolo e le riforme di Benedetto XIV* (Bologna: CLUEB, 2010).

⁵⁷ Casanova, *Crimini nascosti*, 10; S.R. Blanshei, 'Introduction' in S.R. Blanshei (ed.), *Violence and justice in Bologna 1250-1700* (Lanham: Lexington Books, 2018) xvi; V. Rizzo, 'Donne e criminalità a Viterbo nel XV secolo', *Rivista storica del Lazio* 12 (2000) 11; Angelozzi and Casanova, *Donne criminali*, 54.

⁵⁸ For an overview see E. Muir, 'Italy in the no longer forgotten centuries', *I Tatti Studies in the Italian Renaissance* 16:1/2 (2013) 5-11.

⁵⁹ J. Kelly, 'Did women have a Renaissance?' in J. Kelly (ed.), *Women, history & theory: the essays of Joan Kelly* (University of Chicago Press, 1984) 19-50; J.C. Brown, 'Introduction', in: J.C. Brown and R.C. Davis (eds.), *Gender and society in Renaissance Italy* (London/New York: Longman 1998) 1-16; T. Coletti, 'Did women have a Renaissance? A medievalist reads Joan Kelly and Aemilia Lanyer', *Early modern women. An interdisciplinary journal* 8 (2013) 249-259.

⁶⁰ Cohn, 'Women in the streets, women in the courts', 24, 29.

culture of constraint was neither absolute nor invariable over time, space and class.⁶¹ The focus in this book on women's licit and illicit behaviours as reflected by the criminal court records in seventeenth- and eighteenth-century Bologna thus allows us to better understand women's scope of action in these recently 'rediscovered' centuries.

Using criminal court records as sources for social history

The criminal court records of Bologna's *Tribunale del Torrione* constitute the main source for this research. This secular criminal court was established in around 1530, following the annexation of Bologna to the Papal States, and was dissolved in 1796 after the French invasion. As the papal government sought to claim a monopoly over criminal justice, the *Torrione* replaced the medieval communal court of the *podestà* and gradually expanded its judicial authority from the city to over some 4,000 square kilometres of the surrounding countryside.⁶² Its judges were directly appointed by the Pope and dealt with grave crimes such as homicide, counterfeiting and *lèse majesté*, but at the same time also oversaw myriad minor brawls and infractions of the city's decrees on public order. Both these serious crimes and misdemeanours left a significant trail of judicial paper. Although there is significant evidence for the previous existence of a range of sources that have not survived the passing of time – such as the peace-making and surety books, the monthly reports on the income notaries received for their work as well as the dedicated sentence books – the *Torrione's* documentary legacy is overwhelming in size. It is estimated that approximately 11,000 registers from the early modern period survive, consisting of about a million criminal cases.⁶³ Especially when combined with its medieval predecessor, it is considered one of the most long-term, best-preserved and systematic criminal court archives both within and outside Italy.⁶⁴

The archive of the *Torrione* consists of different types of sources. Each year, the *Torrione* produced records for an estimated 3,000 denunciations – the initial complaint about a crime to a local official of the court – and some 400 *processi*, which were formal investigation dossiers.⁶⁵ In form and spirit these *processi* fell somewhere between an inquest and a trial in

⁶¹ Brown, 'Introduction', 2-5; E.S. Cohen, 'Evolving the history of women in early modern Italy: Subordination and agency', in: T.J. Dandeleit and J.A. Marino (eds.), *Spain in Italy. Politics, society and religion 1500-1700* (Leiden: Brill, 2007) 348-354.

⁶² Angelozzi and Casanova, *La giustizia in una città di antico regime*, 111-115.

⁶³ Angelozzi and Casanova, *Donne criminali*, 66.

⁶⁴ *Ibidem*; Blanshei, 'Introduction' xvi; Angelozzi and Casanova, *Donne criminali*, 54; Rizzo, 'Donne e criminalità', 11;

⁶⁵ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 433; Blanshei, 'Introduction', xvi.

the Anglo-Saxon tradition, as it included the deposition, all of the forensic and other evidence gathered, the verbatim transcripts of witness testimonies and suspect interrogations, but did not necessarily pass judgement as trials were often suspended for a range of reasons.⁶⁶ The discrepancy between the number of denunciations and completed trials is well known and well documented for early modern towns, including for those in Italy.⁶⁷ A widespread culture of peace-making and pardoning accounted for a part of these suspensions. Strategically making use of the judicial procedures to mediate their own conflicts, it was not uncommon for plaintiffs to withdraw their complaint, often effectively halting the criminal prosecution.⁶⁸ Another reason for the suspension of trials can be attributed to the court magistrates. They filtered the cases they pursued based on feasibility in terms of onus, the cases' perceived danger or importance to the community as well as the 'personal qualities' of those involved in them.⁶⁹ Examining the character and content of both the denunciations and the *processi* is therefore important because it not only allows us to shed light on the involvement of men and women in a wider variety of crimes, but also because it enables us to scrutinise the diverging priorities of plaintiffs and the authorities and, consequently, on gender biases ingrained in the judicial system.

To be able to study women's involvement in crime in early modern Bologna, a combination of a quantitative and a qualitative approach is necessary. The serial nature of the criminal proceedings outlines rough quantitative parameters, while case-by-case analyses bring out the individual specificities and commonalities colouring the ways in which crimes were carried out and evaluated.⁷⁰ The share of women among offenders is thus addressed quantitatively in this book, while the interpretation of how legal and gender norms affected the criminal behaviours of early moderners and their judicial treatment requires a more qualitative assessment of the criminal court records.

⁶⁶ In late seventeenth Bologna, a verdict was reached in only a little over three per cent of all of the cases that passed through the court. See Angelozzi and Casanova, *La giustizia in una città di antico regime*, 551, 565; Cohen, *Love and death*, 3;

⁶⁷ A. Pastore, *Crimine e giustizia in tempo di peste nell'Europa moderna* (Rome: Laterza, 1991) 75; Angelozzi and Casanova, *La giustizia in una città di antico regime*, 421; T. Dean, *Crime and justice in late medieval Italy* (Cambridge University Press, 2007) 19.

⁶⁸ O. Niccoli, 'Rinuncia, pace, perdono. Rituali di pacificazione della prima età moderna', *Studi storici*, 40:1 (1999) 234; C. Nubola, 'Giustizia, perdono, oblio. La grazia in Italia dall'età moderna ad oggi', in K. Härter and C. Nubola (eds.), *Grazia e giustizia. Figure della clemenza fra tardo medioevo ad età contemporanea* (Bologna: Il Mulino, 2011) 33.

⁶⁹ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 643; Dean, *Crime and justice in late medieval Italy*, 19.

⁷⁰ E. Muir and G. Ruggiero, 'Afterword. Crime and the writing of history', in E. Muir and G. Ruggiero (eds.), *History from crime* (Baltimore: John Hopkins University Press, 1994) 234-235.

The extensiveness of Bologna's unindexed criminal court archive has necessitated the taking of samples. The impact of the plague during the 1630s, the political turmoil of the early 1650s as well as the changing organisation of record keeping around the same time have been convincing arguments to select 1655 as a first sample year, followed by the less tumultuous years of 1675, 1705, 1725 and 1755, stopping just before the economic crisis fully impacted the city. For these sample years I have selected three datasets. The first dataset consists of 910 *processi* and represents all extant urban investigation dossiers for the five sample years. The data collected for these cases is less detailed than for the other samples and serves primarily to reveal representative, quantitative patterns of criminal prosecution and possible developments throughout time.⁷¹ The second dataset consists of one or more casebooks by a notary for each of the sample years. This resulted in a collection of 1,070 denunciations and 207 *processi* that were kept either in the back of these casebooks or later in its second, accompanying volume. The qualitative analyses in this book are based on these sources, as well as on a third data collection of 77 additional *processi*. These *processi* were selected at random for years surrounding the sample years, the only criteria being that a woman was named on the front sheet as one of the defendants (see the appendix).

The cases collected from the Bolognese criminal court showcase crimes, yet do not necessarily represent all of criminality among a population. The discrepancy between actual criminal activity and criminal prosecutions plays an important role in historical research. Reflecting on the functioning of the criminal justice system in the early modern period, many scholars have argued that these sources above all measured the effectiveness and choices of the judicial apparatus rather than all of society's transgressions.⁷² That the criminal court records merely represent recorded crime has long been acknowledged by criminologists and crime historians. They commonly refer to the 'dark figure of crime' to describe the crimes that were neither reported nor recorded by official record keepers.⁷³ Interestingly, many historians assume that historical prosecution figures were lower – and the dark figure higher – for women than for men.⁷⁴ Based on her examinations of criminal court records from seventeenth-century Cheshire, Garthine Walker, for example, suggested that “we can

⁷¹ The results from this data have consistently been compared to the work of Angelozzi and Casanova, who based their conclusions on a massive quantitative sample of 214 casebooks for the years 1583-7, 1625-9, 1671 and 1775-9. See Angelozzi and Casanova, *Donne criminali*, 67-68.

⁷² M. Sbriccoli, 'Fonti giudiziarie e fonti giuridiche. Riflessioni sulla fase attuale degli studi di storia del crimine e della giustizia criminale', *Studi Storici* 29:2 (1988) 494; Casanova, *Crimini nascosti*, 19; T. Dean and K. Lowe, 'Introduction' in T. Dean and K. Lowe (eds.), *Crime, society and the law in Renaissance Italy* (Cambridge University Press, 1994) 2-3.

⁷³ Schmidt and Pluskota, 'Gevaarlijke vrouwen, gewelddadige mannen?', 62.

⁷⁴ Van der Heijden, *Women and crime*, 11.

surmise that women's place in the household meant that they were especially likely to be excluded from the official court records."⁷⁵ For early modern Italy it is similarly contended that women's transgressions were more likely to be dealt with outside the judicial system.⁷⁶ While we may never know for sure what proportion of women relative to men committed offences without being formally held accountable, the survival of both the denunciations and the investigation dossiers provide important opportunities to trace discrepancies between which behaviours were denounced and which were subjected to a formal investigation, as well as shedding light on the impact of gender on this process in an early modern northern Italian town.

The court records were by no means neutral and objective sources. In theory the court notary was bound to record verbatim everything that the plaintiffs, suspects and witnesses said and did. While some scholars argue that individuals retained very distinct and personal voices in the early modern Italian court papers, these records were at the same time also clearly a product of the court. Substantial parts of these recordings were very much guided by magistrates' questions, after which replies often followed a recognizably standardised structure and echoed legal terminology and rhetoric.⁷⁷ The court officials were not the only key players in this process: the men and women who had their statements of events recorded were equally important. Natalie Zemon Davis and others have convincingly argued that these men and women always, in some measure, strategically constructed their narratives according to rules of both legal and cultural rhetoric.⁷⁸ While court records should thus be viewed as a 'specialised literary genre' or as 'plausible stories' rather than one-on-one transmissions of the reality of an event, they nevertheless provide one of the best sources for information on the popular culture of early modern Italy, allowing us to reveal the everyday behaviours of those who left few other documentary traces.⁷⁹

Bologna's early modern criminal court records are therefore examined from two angles here. On the one hand they are viewed as being the products of an apparatus of top-

⁷⁵ Walker, *Crime, gender and social order*, 12.

⁷⁶ Sbriccoli, 'Deterior est condicio foeminarum', 83-84.

⁷⁷ Cohen, *Love and death*, 4; C. Lansing, 'Concubines, lovers, prostitutes. Infamy and female identity in medieval Bologna' in P. Findlen, M.M. Fontaine and D.J. Osheim (eds.), *Beyond Florence. The contours of medieval and early modern Italy* (Palo Alto: Stanford University Press, 2003) 90; S. Seidel Mench, 'I processi matrimoniali come fonte storica', in S. Seidel Menchi and Diego Quaglioni (eds.), *Coniugi nemici. La separazione in Italia dal XII al XVIII secolo* (Bologna: Il Mulino, 2000) 59-68.

⁷⁸ N. Zemon Davis, *Fiction in the archives. Pardon tales and their tellers in sixteenth-century France* (Stanford, California: Stanford University Press, 1987); Dean, *Crime and justice in late medieval Italy*, 31; Lansing, 'Concubines, lovers, prostitutes', 90.

⁷⁹ Dean, *Crime and justice in late medieval Italy*, 31; Lansing, 'Concubines, lovers, prostitutes', 90; Cohen, *Love and death*, 4; Cohen, 'Open city', 51.

down control by the authorities. Not only did the notaries have a hand in shaping the language and rhetoric of the documents but, in a broader sense, prosecuted crime can be viewed as the result of political and institutional choices that dovetail the authorities' attitudes towards various crimes and criminals.⁸⁰ However, both in what is and what is not said the sources also distinctly attest to the *Torrone's* functioning as a forum for bottom-up conflict resolution. References to prior conflicts between plaintiffs and defendants about filing complaints with the court as well as the prevalence of renunciations – suggestive of extrajudicial settlements – speak volumes in this regard. By viewing the court records as products of both of these mechanisms, they allow us to probe the extent to which women were able to display considerable, though gendered, agency in both their licit and illicit conduct while navigating what has been referred to by Elizabeth Cohen as 'a culture of constraint'.⁸¹

Several previously mentioned analytical concepts require further clarification. What is seen as 'crime' of course differs over time and space and is generally seen in relation to the interests of the authorities as well as legal prohibitions.⁸² Indeed, what behaviours are *prosecuted* as crimes is always the result of political, institutional and socio-cultural choices and definitions.⁸³ However, this book examines not only prosecuted crimes but also *reported* crime, consequently all of the behaviours brought under the purview of the criminal court by local bailiffs and individuals. The term crime is thus used rather loosely as any action that was deemed injurious and resulted in a complaint or denunciation to the criminal court.

A second important concept is that of 'gender'. Rooted in the 1980s, gender differs from the term 'sex' in distinguishing the social and cultural construction of maleness and femaleness as part of an ideological system that can vary across time and space.⁸⁴ When this book examines differences and similarities between the male and female offenders before the criminal court, it therefore does not refer to their physiology but to both the cultural and practical effects of the values and models of comportment that were socially imposed on the

⁸⁰ Dean and Lowe, 'Writing the history of crime', 3.

⁸¹ Cohen, 'Evolving the history of women, 343, 354.

⁸² The Oxford English Dictionary, for example, describes the word 'crime' as "An act or omission constituting an offence (usually a grave one) against an individual or the state and punishable by law", see "crime, n.2", *OED Online* (Oxford University Press), accessed 20 June 2018.

⁸³ Dean and Lowe, 'Writing the history of crime', 3; M. Dinges, 'The uses of justice as a form of social control in early modern Europe' in: H. Roodenburg and P. Spierenburg (eds.), *Social control in Europe. Volume 1, 1500-1800* (Columbus: Ohio State University Press, 2004) 166.

⁸⁴ C. Casanova, *La famiglia italiana in età moderna. Ricerche e modelli* (Carocci: Rome 1997) 148; T. Kuehn, *Family and gender in Renaissance Italy, 1300-1600* (Cambridge University Press, 2017) 3; Cohen, 'Evolving the history of women', 326.

sexes. Because of the current state of scholarship, the focus of this book is first and foremost on investigating and weighing the scope of action of women in an early modern Italian town. However, because male and female should be seen as interconnected categories within social hierarchies, power relations and ideology, women are always studied in relation to men.⁸⁵

Another important, related concept is that of 'agency'. Earlier studies on early modern Europe have tended to emphasise the constraints that cultural precept and patriarchal ideology imposed on women. To this day, this idea of subordination looms large in the history of early modern Italian women, who, based on the prescriptive sources alone, could be depicted as propertyless dependents, lacking full legal personhood as well as most institutional authority, and who were furthermore often enclosed either in their homes or religious or civic institutions.⁸⁶ However, recent studies have argued that there was a significant difference between the norms that were described in prescriptive literature and the complexities of everyday life.⁸⁷ They therefore increasingly explore what early modern women *did* do and say, on their own and in collaboration with men. Agency here is then used not to assume anachronistic gender equality, female liberty or the successful completion of conscious intentions.⁸⁸ In line with the definition that Anne Montenach and Deborah Simonton recently introduced, this book uses the term agency to designate the spectrum of capacities, choices and behaviours – licit and illicit – of men and women to negotiate their interests within and against the context of societal constraints.⁸⁹ This definition takes into account the obstacles that women were confronted with as well as the opportunities nevertheless available to them. It therefore enables us to scrutinise why women committed crime, under what circumstances and how this behaviour came under the criminal court's purview. In their work on England, Bronach Kane and Fiona Williamson argued that the analysis of gender and agency in tandem provides an important avenue to

⁸⁵ Cohen, 'Open city', 37.

⁸⁶ For an overview of important prescriptive sources, see footnote 8 of E.S. Cohen, 'Evolving the history of women', 327-328; D. Shemek, *Ladies errant. Wayward women and social order in early modern Italy* (Durham: Duke University Press, 1998) 2-3.

⁸⁷ B. Kane and F. Williamson, 'Introduction', in: B. Kane and F. Williamson (eds.), *Women, agency and the law, 1300-1700* (New York 2013) 1-16; Cohen, 'Open city', 45; Cohen, 'Evolving the history of women', 329;

⁸⁸ Cohen, 'Evolving the history of women', 329-331. For a criticism of the notion of agency for early modern women lacking full legal personhood, see T. Kuehn, 'Understanding gender inequality in Renaissance Florence. Personhood and gifts of maternal inheritance by women', *Journal of women's history* 8:2 (1996) 58-80, especially 61 and 73.

⁸⁹ A. Montenach and D. Simonton, 'Introduction: Gender, agency and economy. Shaping the eighteenth-century European town', in D. Simonton and A. Montenach (eds.), *Female agency in the urban economy. Gender in European towns, 1640-1830* (New York and London: Routledge, 2013) 5.

explore not only women's actions but also the relationship between gender, social practice and the law, which is something this book seeks to do.⁹⁰

Composition of this book

This book comprises seven chapters including an introduction and a conclusion. Chapter two sets the stage for the rest of the book by introducing the city of Bologna and examining women's social, economic and legal roles and positions in it based on secondary literature. Women's experiences in Italian cities have often been viewed from the perspective of a dichotomy between Northern and Southern European societies. This has commonly led to a rather pessimistic view of the position and opportunities of women in these pre-modern Italian towns. By scrutinizing the legal and social restrictions as well as the opportunities for women within the early modern city of Bologna in the spheres of the family and household, labour and urban institutions, this chapter argues that recent scholarship has provided significant evidence that many of the assumptions need to be nuanced. Alongside the more 'restrictive' dowry system and limited legal personhood for women, urban Bologna also had many characteristics that are often seen as contributing to the relative 'freedom' of women in North-Western European towns: a prevalence of nuclear families, comparable shares of female-headed households and high proportions of women active in the labour market. The existence of an extensive institutional web combining care and control for a variety of vulnerable women furthermore emphasises the ambiguous position of women in Italian towns like Bologna. They acted in a culture of constraint but nevertheless had more room for licit and illicit manoeuvre than is commonly believed.

Chapter three examines the relationship between criminal prosecution patterns and gender in early modern Bologna from the lens of the authorities. It starts out by situating the *Tribunale del Torrione* within Bologna's legal landscape, the organisation of the criminal justice system, which procedures were established and how criminal justice was administered. Based on the investigation dossiers (*processi*) an examination is made of what crimes were investigated by the *Torrione* between the mid-seventeenth and mid-eighteenth century, how they were sentenced and what share women had in these crimes. This chapter distinguishes three important features of women's prosecuted crime in early modern Bologna. First, the types of crimes for which women were investigated bore pivotal similarities to men's and, once more, counters older notions of a dichotomy of masculine and feminine crimes. Second,

⁹⁰ Kane and Williamson, 'Introduction', 3.

it highlights the importance of violence in the criminal proceedings for both men and women and, third, it reveals the comparatively low share of women among investigated offenders throughout the century. This chapter furthermore reflects on the ways in which gender could have influenced these prosecution practices and points to the roles of the extensive web of institutions, a reconciliatory legal culture and a judicial paternalism in quantitatively obscuring women's involvement in certain deviant behaviours.

While the previous chapter focused more on the top-down control of the *Torrone*, chapter four engages with the latitude that women and men had to use this criminal court as a forum for conflict resolution. Important work has been done on the integral role of composition and peace-making within early modern criminal justice.⁹¹ That litigation can be viewed as a part of this negotiation process is also increasingly acknowledged. So far, women's roles in these practices have received little scholarly attention, perhaps in part due to the relatively weak legal position that women had in Roman law. However, this chapter argues that plaintiffs of both genders were well aware of the threat that emanated from a charge and tried to use it as a coercive measure in conflict resolution. Substantial evidence for this argument is found in the denunciations; sources that were far more plentiful than the *processi*. Interestingly, as the denunciations represented the earliest stages of the criminal court process they included the petty grievances caused and endured by significantly larger percentages of women. While these strategised practices of conflict resolution contributed to their lower shares in later stages of the criminal justice process, it is important to emphasise that this also was the result of urban Bolognese women having more legal agency than is often assumed.

Individuals' recourse to the criminal court in order to settle personal disputes has been fundamental in shaping the image of violence before the Bolognese criminal court. As the Bolognese authorities had little interest in prosecuting the bulk of the reported (often petty) violent acts, the sources can by and large be viewed from the perspective of the men and women that used litigation as leverage in conducting the small politics of their everyday lives. Chapter five explores the gendered dynamics of these quotidian violent behaviours recounted in the *Torrone's processi* and denunciations. It discusses the particular place of Italy as a representative of the 'southern pattern' in European comparisons of long-term patterns

⁹¹ S. Cummins and L. Kounine, 'Introduction. Confronting conflict in early modern Europe', in: S. Cummins and L. Kounine (eds.), *Cultures of conflict resolution in early modern Europe* (Surrey: Ashgate, 2016) 9; P. Broggio and S. Caroll, 'Introduction. Violence and peacemaking in early modern Europe', *Krypton* 3:5/6 (2015) 5; O. Niccoli, *Perdonare. Idee, pratiche, rituali in Italia tra cinque e seicento* (Rome: Editori Laterza, 2007) 38-39.

of violence and how historiography has argued that Italy's 'culture of violence' went hand in hand with that of reconciliation throughout the early modern period. This chapter builds upon recent scholarship by including pettier forms of violence in its analysis, which made up the bulk of reported crime for both male and female offenders and are therefore more telling of men's and women's everyday encounters with violence and the law than homicide alone. In examining the differences and similarities between various characteristics of men's and women's violent encounters it finds that it to a large extent reflected the socio-economic realities of their everyday lives, but also appealed to gendered tropes of appropriate behaviour in certain spaces and as such may have been part of a constructed judicial narrative. Most importantly, however, these cases reveal that despite stringent normative restrictions and cultural discouragement, women's violent behaviour was far too common to be viewed as an anomaly.

Finally, chapter five treats the second most common crime before the *Torrone*: theft. Although the pattern of reported crime was to a large extent moulded by violence, thefts of all shapes and sizes belonged to the 'serious crimes' that the court sought to investigate and prosecute in any way possible. The interest in prosecuting these kinds of crimes was, for example, apparent in the fact that thefts made up larger shares among the *processi* than among the denunciations, especially for women. Nevertheless, the share of women among property offenders was significantly smaller than in many other regions in early modern Europe. This chapter examines the differences and similarities in everyday practices of thieving by male and female offenders in Bologna as well as the inherently gendered legal attitudes that framed female offenders' encounters with the law. It shows how the comparatively low share of female property offenders in Bologna was engendered by a pervasive culture of institutionalisation, peace-making and judicial paternalism towards women. Rather than interpreting the criminal court records as evidence for early modern Italian women's lack of agency, they allow us to tease out the many factors that concealed their everyday licit and illicit behaviours.

CHAPTER 2. WOMEN'S ROLES, INSTITUTIONS AND SOCIAL CONTROL IN EARLY MODERN BOLOGNA



FIGURE 1. GIUSEPPE MARIA MITELLI, *IL GIOCO DELLA VERITÀ*, 1688. ETCHING ON PAPER, COLLEZIONE LUIGI CIOMPI & ADRIAN SEVILLE

The figure above is taken from one of the thirty-three didactic games that Bologna-born engraver Giuseppe Maria Mitelli made between 1680 and 1712. Enjoying significant popularity in their time, these dice and board games depicted everyday places and social situations in seventeenth- and eighteenth-century Bologna – often in a humoristic way.¹ Called *Gioco della Verità* (game of truth), this particular game was played with just one die: throwing one to five meant that the player had to pay either one or four coins and a six won the pot. With the six spaces reading captions like ‘He who plays loses and he who does not play wins’, ‘Dancing you will lose more than you believe’ and ‘Looking at oneself in the mirror, you lose’, the game provided blatant commentary on how men and women should

¹ M.S. Riebe, *Sotto i portici: Life in seventeenth-century Bologna through the games of Giuseppe Maria Mitelli (1634-1718)* (Unpublished PhD thesis, Bard College, New York 2010)

conduct themselves in private and public. Interestingly, the image for a roll of five in the right corner shows two women with a small dog being presented a flower by a man. The accompanying caption ominously reads *Fuor di casa sempre si perde*: outside of the house you always lose.

The notion that an honest woman's proper place was in the home was echoed by a wide range of pre-modern didactic and prescriptive sources such as conduct books, religious rules and commentaries. Encouraged by ideas of a Mediterranean honour culture, some scholars have taken this literature to understand women as being secluded and enclosed in either convents or strict domestic roles.² Seen as a contrast to a freer northern Europe, ideas about 'southern' or 'Mediterranean' family systems, nuptiality, regulations concerning inheritance and dowry as well as labour participation have generally led to a pessimistic view of the position and scope of action of women in pre-modern Italian cities. Recent scholarship has however suggested that this generalised image misrepresents life for most of these women.³ This chapter draws on this scholarship to introduce the contours of the city of Bologna during the early modern period and, importantly, to examine women's social, economic and legal roles in it. By scrutinising both the restrictions and the opportunities for women within the spheres of the family and household, labour and urban institutions, it argues that while women undoubtedly acted in a patriarchal culture of constraint they nevertheless had a greater scope of action than was commonly believed.

Political and demographic developments

During the period under scrutiny in this book, Bologna belonged to the territories under direct sovereign rule of the Pope. In November 1506 Pope Julius II appeared at Bologna's walls accompanied by an imposing army to chase out the ruling Bentivoglio oligarchy, marking the return of papal rule over Bologna which would last until the invasion by the French in 1796. Bologna's character as a 'Republic by contract' – in which the papacy conceded significant local powers and privileges to the city in return for the acknowledgement of the papacy's overarching sovereignty – played a key role in its local political dynamics.⁴ As a 'mixed government' (*governo misto*) from 1513 onwards, Bologna was ruled cooperatively by a papal legate with greater abstract authority and a local Senate

² For a discussion of the literature about cultural precepts relating to women's enclosure, see Cohen, 'To pray, to work, to hear, to speak', 291-295.

³ *Ibidem*, 294.

⁴ The term 'Republic by contract' is coined by Angela De Benedictis, see A. De Benedictis, 'Repubblica per contratto. Una città (Bologna) nello stato (Pontificio)', *Scienza & Politica* 2:4 (1990) 59-72.

exercising greater practical power.⁵ The members of this Senate were drawn from the major families on either side of the factional divide (pro- and anti-Bentivoglio) who had previously dominated Bologna. Although these noble factions continued to wager for power with each regime change, their incorporation in the urban government established a century of relative social peace in Bologna – one that unravelled after a series of economic and natural disasters during the 1620s and 1630s and was gradually re-established in the half century that followed.⁶ During the eighteenth century a range of foreign wars wreaked havoc throughout the Italian peninsula including in the Bolognese territory, while Bologna's internal politics had sailed into comparatively calmer waters.⁷

Geographically a part of northern Italy (see figure 2), Bologna belonged to one of the most densely populated and urbanised regions of Europe through the medieval and Renaissance period. In around 1300, some 18 per cent of the population in northern and central Italy lived in cities with more than 10,000 inhabitants compared to only 3.5 per cent in England and Wales.⁸ However, while urbanisation rates grew significantly in most northern regions of Europe during subsequent centuries, those in central and northern Italy had diminished to around 13 per cent by the eighteenth century. Certain (particularly capital) cities such as Rome and Naples experienced significant growth from the fourteenth century onwards due to political centralisation, but many other towns stagnated as they diminished in importance and migrant attractiveness, due not least to the effects of the Black Death and subsequent epidemics as well as the decline of industrial and commercial activities in these towns.⁹

Among these central and northern Italian towns, Bologna developed in a distinctive way: its urban population nearly doubled between the fourteenth and sixteenth century due

⁵ N. Terpstra, 'Republics by contract': Civil society in the Papal State', in N.A. Eckstein and N. Terpstra (eds.), *Sociability and its discontents: Civil society, social capital, and their alternatives in late medieval and early modern Europe* (Turnhout: Brepols, 2009) 298.

⁶ M. Fanti, 'Bologna nell'età moderna (1506-1796)', in: A. Ferri and G. Roversi (ed.), *Storia di Bologna* (Bologna: Bononia University Press, 2005) 212; Terpstra, 'Republics by contract', 296-302. For an excellent analysis of the social repercussions of the breakdown of social and institutional trust in seventeenth-century Bologna, see C.S. Rose, *Homicide in North Italy: Bologna, 1600-1700* (Unpublished PhD thesis, University of Toronto, 2016) 194-271.

⁷ Fanti, 'Bologna nell'età moderna', 236-237.

⁸ And zero per cent in the Low Countries. See page 29 of the appendix to P. Malanima, *L'economia italiana. Dalla crescita medievale alla crescita contemporanea* (Bologna: Il Mulino, 2003).

⁹ M. Bosker, S. Brakman, H. Garretsen, H. de Jong and M. Schramm, 'The development of cities in Italy 1300-1861', *CESifo working paper* 1893 (<http://www.ehs.org.uk/dotAsset/491c2f80-6f0e-42c2-becb-228b23ef47b7.pdf>) 30-31; F. Giusberti and F. Roversi Monaco, 'Economy and demography', in S.R. Blanshei (ed.), *A companion to medieval and Renaissance Bologna* (Leiden: Brill, 2018) 165; C.F. Black, *Early modern Italy. A social history* (London: Routledge, 2001) 21; P. Malanima, 'Urbanisation and the Italian economy during the last millennium', *European review of economic history* 9 (2005) 107.

to the expansion of its industrial base. However, unlike other industrial towns such as Genoa, Florence and Milan, Bologna did not endure a sustained decline after the severe sixteenth-century famines nor after the Great Plague of 1630, but instead continued to enjoy relative economic prosperity throughout the seventeenth century.¹⁰ With between 60,000 and 70,000 inhabitants in the city alone in the early modern period, Bologna was among the 15 biggest cities of early modern Europe.¹¹ Nevertheless, the relative share of Bolognese living in the urban centre compared to its surrounding territory declined. While in 1581 around 30 per cent of the Bolognese lived in the city, this gradually declined to approximately 28 per cent in 1701, 22 per cent in 1799 and 20 per cent in 1840.¹² Figure 3 reveals that this was not necessarily because of a decline in the urban population. Instead, growing from 160,000 to 230,000 inhabitants between 1581 and 1799, the population of the Bolognese countryside grew faster than its urban centre did. This phenomenon has also been observed elsewhere in eighteenth-century Italy.¹³

A generally accepted aspect of western European urban demography is that women outnumbered men.¹⁴ Of course this skewed sex ratio varied across Europe. Early modern Holland is for example known for its especially high surpluses; a situation that has recently been related to women's greater propensity to engage in crime due to their combined independence and vulnerability.¹⁵ Rome, where men outnumbered women by a large margin, constituted another exception to the rule.¹⁶ Some scholars have viewed the surplus of men in early modern Rome as providing further proof of the many ways in which 'the south' diverged from Northern Europe.¹⁷ However, despite this appeal to the notion of southern exceptionalism, the fragmentary evidence available suggests that most central and Northern Italian towns adhered to the 'standard' European pattern: urban sex ratios in seventeenth-

¹⁰ Giusberti and Roversi Monaco, 'Economy and demography', 165.

¹¹ Guenzi, 'L'identità industriale', 46; A. Bellettini, *La popolazione di Bologna dal secolo XV all'unificazione Italiana* (Bologna: Zanichelli, 1961) 26-27.

¹² Calculations based on the urban population as well as the entirety of the Bolognese territory, see table 2 in Bellettini, *La popolazione di Bologna*, 48.

¹³ D. Carpanetto and G. Ricuperati, *L'Italia del settecento* (Rome: Laterza, 2008) 9-10.

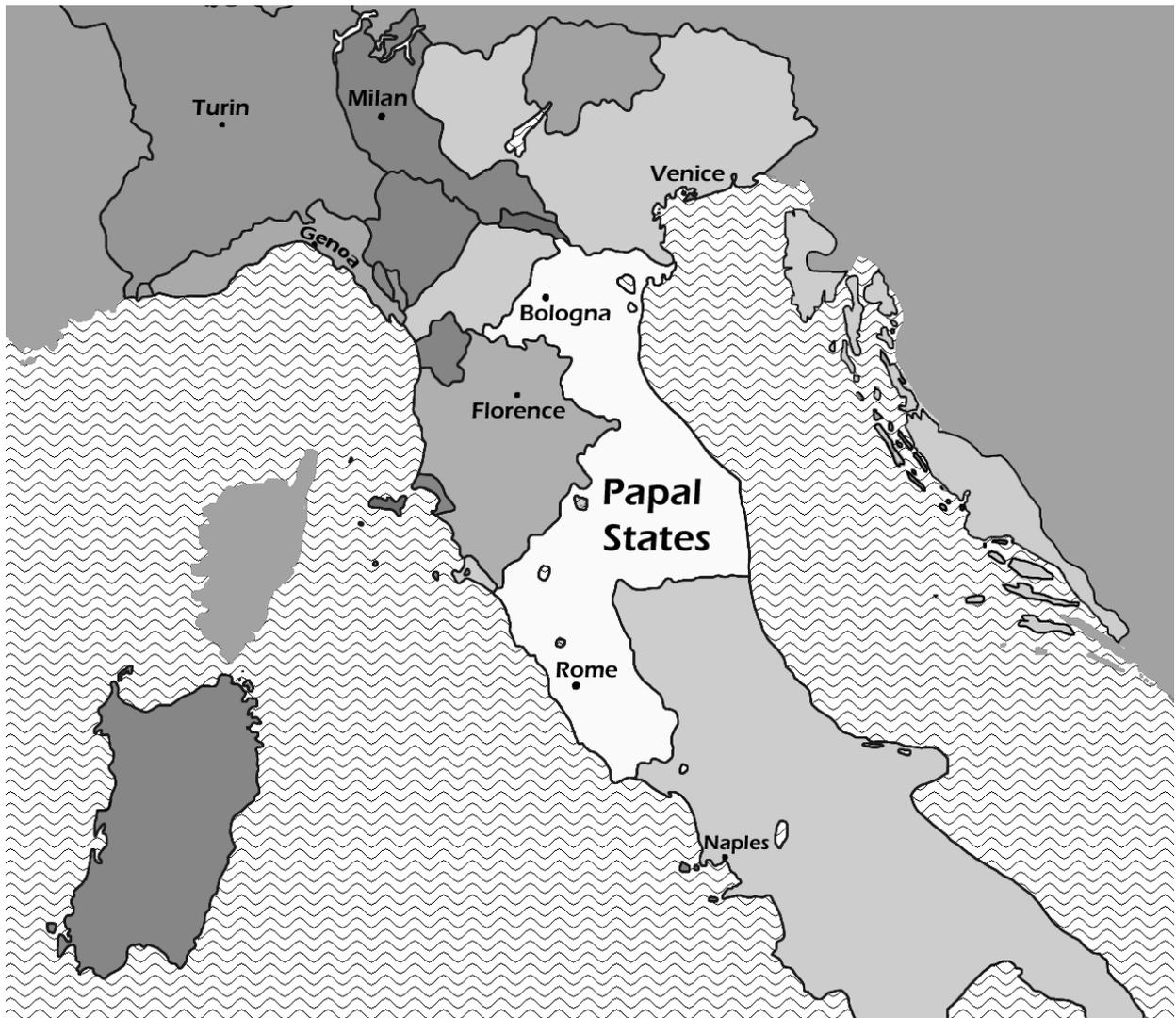
¹⁴ K. Lynch, *Individuals, families and communities in Europe 1200-1800: The urban foundations of Western society* (Cambridge University Press 2003) 39.

¹⁵ Van der Heijden, *Women and crime*, 18-19, 120, 160; A. Schmidt and M. van der Heijden, 'Women alone in early modern Dutch towns: opportunities and strategies to survive', *Journal of Urban History* 42:1 (2016) 22.

¹⁶ See table 1.4 in Lynch, *Individuals, families and communities*, 40-41; E.S. Cohen, 'Open city. An introduction to gender in early modern Rome', *I Tatti studies in the Italian Renaissance* 17:1 (2014) 41.

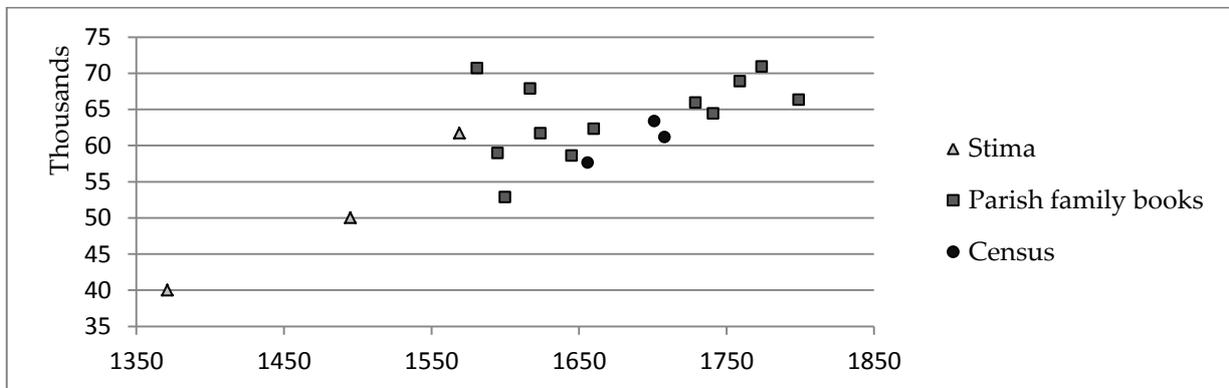
¹⁷ For the suggestion of divergent sex ratios in the north and south of Europe (based primarily on Rome's anomalous demographic structure), see, for example, T. de Moor and J.L. van Zanden, 'Girl power: The European marriage pattern and labour markets in the North Sea region in the late medieval and early modern period', *The Economic History Review* 63:1 (2010) 12.

FIGURE 2. BOLOGNA AND THE PAPAL STATES AROUND 1748



Source: Based on Caro1409, 'Koenigreich Naepel Sizilien 1748 [map]', 2005, https://commons.wikimedia.org/wiki/File:Koenigreich_Neapel_Sizilien.jpg (last accessed 11 July 2018).

FIGURE 3. DEVELOPMENT OF THE URBAN POPULATION IN BOLOGNA BETWEEN 1371 AND 1799



Source: Tables 1 and 2 from A. Belletini, *La popolazione di Bologna dal secolo XV all'unificazione Italiana* (Bologna: Zanichelli, 1961) 25, 48.

and eighteenth-century Verona, Venice, Florence and Bologna were all skewed towards women.¹⁸ In 1741, for example, 53.8 per cent of Bologna's urban population consisted of women.¹⁹ The persistent stereotypes surrounding women's sheer demographic presence in these urban environments suggests that their involvement and comportment in other areas of the urban environment also needs to be reconsidered.

Household structures, property rights and legal capacity

Ideas regarding legal structures as well as marriage and property regimes have played particularly prominent roles in the conception of pre-modern Italian society as a place of constraint for women. Much of what would come to represent the 'southern European model' has been based on the studies of the now well-known Tuscan fifteenth-century *catasto* (cadastre).²⁰ This iconic source revealed a society with large extended families and significant age gaps between marriage partners and has been remembered as portraying a large patriarchal family and a "bastion of exclusive male authority."²¹ Aside from this assumed demographic regime, restrictions in the law provided further grounds for painting a bleak picture of seclusion and lack of autonomy for women.²² In law, a woman's legal capacity was restricted to her own person.²³ This meant that women could not hold civic office, were not entitled to a full share of the family patrimony, could not actively possess their dotal assets, and furthermore could not gain full parental authority (*patria potestas*) over their children. Based on this, it is no surprise that Italian women were viewed as nearly always being subordinate to male authority of some sort, be it that of the father, the husband, or someone substituting for them.²⁴

Subsequent research has criticised and nuanced this 'southern European model' in various ways. An important area of historiographical revision pertains to the social and

¹⁸ Between 1600-1800 between 52 and 54 per cent of the Bolognese population consisted of women. For the sex ratios, see table 1.4 in Lynch, *Individuals, families and communities*, 40-41; Bellettini, *La popolazione di Bologna*, 61.

¹⁹ See table 7 from Bellettini, *La popolazione di Bologna*, 61.

²⁰ D. Herlihy and C. Klapisch-Zuber, *Les Toscans et leur familles: une étude du catasto florentin de 1427* (Paris: Éditions de l'École des hautes études en sciences sociales, 1978); P.P. Viazzo, 'What's so special about the Mediterranean? Thirty years of research on household and family in Italy', *Continuity and change* 18:1 (2003) 114-115.

²¹ Cohen, 'Evolving the history of women', 333; Viazzo, 'What's so special about the Mediterranean?', 114-115.

²² This scholarship is reflected upon by T. Kuehn, 'Person and gender in the laws' in J.C. Brown and R.C. Davis (eds.), *Gender and society in Renaissance Italy* (Longman: London/New York, 1998) 87-88; J. Sperling, 'Dowry or inheritance? Kinship, property, and women's agency in Lisbon, Venice, and Florence (1572)', *Journal of early modern history* 11:3 (2007) 197-204.

²³ Kuehn, 'Daughters, mothers, wives and widows', 99; Groppi, 'A matter of fact rather than principle', 41.

²⁴ Palazzi, 'Female solitude and patrilineage. Unmarried women and widows during the eighteenth and nineteenth Centuries', *Journal of Family History*, 15 (1990) 445

demographic characteristics of early modern Italian towns. Though still prominent in generalisations, the 'southern' or 'Mediterranean model' characterised by multiple-generation households and a very young marriage age has found little empirical substantiation. Critics instead stress complex diversities up and down Italy, between urban and rural areas as well as between socio-economic groups.²⁵ Northern and central Italian towns such as Bologna shared important characteristics with towns in north-western Europe such as late marriage age for both men and women; this is a feature that is often used to distinguish and explain the relative freedom and independence of northern women.²⁶ In eighteenth-century Venice the average age to marry was for example 31.4 for men and 29.3 for women.²⁷ Similarly, examinations of censuses and parish family books have long shown that early modern households in northern and central Italian urban centres were typically characterised by a nuclear structure.²⁸ Again for Venice, Daniela Hacke found that the most common household structure between 1589 and 1607 consisted of a married couple heading their own household.²⁹ This was also the case in the city of Bologna, where a late-eighteenth-century census reveals two-thirds of the urban population living in nuclear households.³⁰

Rather than emphasizing how structurally dissimilar the south was from the north, a more nuanced conception of early modern Italian towns is necessary. This is also true for the position of women in these urban environments. On the one hand some scholars have argued that married and unmarried women in northern European cities tended to have greater freedom of movement than in the south.³¹ They argued that this was not only due to it being considered honourable in Italian cities for women to remain in the home, but also importantly because Protestant towns had few if any of the many convents and protective enclosures that may have sequestered as many as 10 to 20 per cent of all urban Italian women. On the other hand, the lives of the women outside of these enclosures resembled those of their northern counterpart in important ways. Aside from the nuclear household

²⁵ For an excellent overview of the many contributions to this debate, see Viazzo, 'What's so special about the Mediterranean?' 111-137; S. Sovič, P. Thane and P.P. Viazzo, 'The history of European families: Old and new directions' in S. Sovič, P. Thane and P.P. Viazzo (eds.), *The history of families and households. Comparative European dimensions* (Leiden: Brill, 2016) 5-7; Black, *Early modern Italy*, 108.

²⁶ M. Barbagli, 'Three household formation systems in eighteenth and nineteenth-century Italy', in D.J. Kertzer and R.P. Saller (eds.), *The family in Italy from antiquity to the present* (New Haven: Yale University Press, 1991) 254; Black, *Early modern Italy*, 22.

²⁷ Black, *Early modern Italy*, 22.

²⁸ M. Barbagli, *Sotto lo stesso tetto. Mutamenti della famiglia in Italia dal 15. al 20. secolo* (Bologna: Il Mulino, 1984) 219.

²⁹ D. Hacke, *Women, sex and marriage in early modern Venice* (Aldershot 2004) 24.

³⁰ See footnote 8 in M. Palazzi, 'Tessitrici, serve, treccole. Donne, lavoro e famiglia a Bologna nel settecento', in: S. Cavaciocchi (ed.), *La donna nell'economia secc. XIII-XVIII* (Florence: Le Monnier, 1990) 363.

³¹ N. Terpstra, 'Sex and the sacred. Negotiating spatial and sensory boundaries in Renaissance Florence', *Radical history review* 121 (2015) 80-82.

structures, proportions of female-headed households in Italian towns were also consistent with and comparable to those found in other European cities. An examination of early eighteenth-century Rome revealed between 17 and 24 per cent of the households being headed by women, another of Milan in 1797 recorded 16 per cent of the heads of households as female and a study of Bologna accounted to 14 per cent.³² Female household heads were particularly numerous in the lower layers of the urban population. Maura Palazzi found that in Bologna in the poorer areas as many as one in four families was run by a widow or an unmarried woman.³³ This is not dissimilar to what has been found in, for example, early modern Dutch towns, where these high levels are regarded as evidence for women's particular independence and all of the risks that came with it, including a greater likelihood of criminal behaviour.³⁴

Scholars have also nuanced ideas regarding women's legal position. Importantly, they have argued that norms did not necessarily converge with practice and that women found considerable leeway to manoeuvre and mitigate the rigours of their legal subordination.³⁵ While women did not have full parental authority over their minor children since they did not possess *patria potestas*, it is known that a widowed mother could gain guardianship either through the husband's testament or with the magistrates' permission.³⁶ Another well-known example pertained to the dowry. Despite being the personal property of the bride, the ownership and management of the dowry was put under control of the groom during the marriage. Nevertheless, scholars have argued that if women in Florence and Lucca, for instance, perceived mismanagement of household resources, they could claim their dowries back from their husbands in court.³⁷ The effects of other legislation are also open to interpretation. The Florentine requirement of a male guardian (*mundualdus*) to draw up a civil notarial act is for example generally seen as an extremely gendered disability in law. However, because a woman could choose *any* man (related or not) as her guardian, some scholars have argued that this measure may have been less restrictive than is often

³² As summarized by Palazzi, 'Female solitude and patrilineage', 453; M. D'Amelia, 'Scatole cinesi. Vedove e donne sole in una società d'ancien régime', *Memoria* 18 (1986) 62-63; E. Armelloni, 'Casa, famiglia e professione nel Milano di fine '700', *Journal of the Lombard Society of history* 113 (1987) 181-185.

³³ Palazzi, 'Female solitude and patrilineage', 454.

³⁴ Van der Heijden, *Women and crime*, 21-22; Schmidt and Van der Heijden, 'Women alone', 24-25.

³⁵ D. Lombardi, 'Famiglie di antico regime', in G. Calvi (ed.), *Innesti. Donne e genere nella storia sociale* (Rome: Viella, 2004) 204; Brown, 'Introduction', 9.

³⁶ Kuehn, 'Daughters, mothers, wives and widows', 109.

³⁷ C. Meek, 'Women between the law and social reality in early Renaissance Lucca', in L. Panizza (ed.), *Women in Italian Renaissance culture and society* (Legenda: Oxford 2000) 187; J. Kirshner, 'Wives' claims against insolvent husbands in late medieval Italy', in J. Kirshner and S.F. Wemple (eds.), *Women of the medieval world* (Oxford: Blackwell, 1985) 256-303.

believed.³⁸ Importantly, too, many other towns including Bologna, Genoa and Venice did not share these requirements, giving women more possibilities to assume responsibilities in the legal arena.³⁹

In general, it is important to emphasise that the roles, expectations and control of women in all of these domains depended on age, marital status and socio-economic class.⁴⁰ As a rule, women's scope of action expanded significantly in the higher age brackets, not only because of widowhood but also because it was no longer necessary for the family to control reproduction. This was also true for women from the lower social strata, where the transmission of property was less of a concern than for the propertied classes.⁴¹ It was also highly dependent on local conditions. A French traveller to Bologna in 1691 commented on the freedoms of women with regard to other cities, writing that "the women aren't locked up like in Florence; you encounter them frequently."⁴² While Italian women undoubtedly acted in a culture of patriarchal constraint, it is crucial not only to consider the theoretical restrictions of their legal status but also to examine the leeway they had to act in practice.

Women within the urban economy

Ideas about women's (declining) labour force participation have further contributed to the notion of Italian women's particularly disadvantaged position. Under-registration, underestimation and undervaluing have been common denominators for women's labour force participation all over early modern Europe, and Italy was no exception.⁴³ More particular to Southern European societies is the historiographical association with the aforementioned 'Mediterranean' or 'southern model' that in essence treats societies in Italy, Spain and Portugal as an axiomatic opposite of the north-western European system due to its presumed prevalence of complex households, low marriage ages and a tendency for lifelong servanthood.⁴⁴ Furthermore, based on the Tuscan fifteenth-century *catasto*, it has been argued that the property regimes of dowry-system countries (i.e. the absence of a conjugal fund) had

³⁸ Kuehn, 'Understanding gender inequality', 64.

³⁹ Wray, *Communities in crisis*, 76.

⁴⁰ Kuehn, 'Daughters, mothers, wives and widows', 98, 112, 114; Cohen, 'Evolving the history of women', 326

⁴¹ Palazzi, 'Female Solitude and Partilineage', 456; G. Angelozzi and C. Casanova, *Donne criminali. Il genere nella storia della giustizia* (Bologna: Patron Editore, 2014) 47

⁴² M. Misson, *Voyage d'Italie* (Amsterdam: Clousier, 1743) as cited in G. Ricci, *Bologna: Storia di un'immagine* (Bologna: Arte Grafiche Emiliane, 1976) 178; Riebe, *Sotto i portici*, 59.

⁴³ J. Humphries and C. Sarasúa, 'Off the record. Reconstructing women's labor force participation in the European past', *Feminist economics* 18:4 (2012) 44-48; B. Zucca Micheletto, 'Reconsidering women's labor force participation rates in eighteenth-century Turin', *Feminist economics* 19:4 (2003) 200-201.

⁴⁴ Viazzo, 'What's so special about the Mediterranean?', 115.

a negative effect the presence of women on the labour market; a disincentive that was reinforced by the heavy emphasis that was placed on female honour, which caused women to be ideally shielded from the work place.⁴⁵

Similar to the untenability of the 'southern' household structure model, there is a growing body of work that not only criticises the notion of women's absence from the labour force in early modern Italy but instead underpins the importance of women's work in the urban economy.⁴⁶ In Italy studies have for example shown that middle and lower class girls themselves made significant contributions to their dowries through their own earnings and savings, illustrating that the dowry system did not necessarily exclude the development of labour-market-oriented strategies.⁴⁷ Furthermore, while it impacted attitudes towards certain lines of work, issues of honour were outweighed by economic necessity for the largest segment of society who could not afford to keep half of the population indoors.⁴⁸ It is convincingly argued that women's economic contributions were not only ubiquitous but also pivotal for the well-being or even the survival of most families in Italy as elsewhere in early modern Europe.⁴⁹

Crafts, domestic service and the retail trade were the most diffuse occupations for women in pre-modern European towns. Economically, the city of Bologna relied heavily on its specialised silk and hemp industry. As mandated by guild regulations, the production of textiles took place within the city walls and the silk industry alone employed about a third of the urban population, approximately half of whom were women.⁵⁰ Contrary to popular belief, but similar to what is found in other Italian textile manufacturing towns such as Turin and Milan, women had a high share in labour force participation: it is estimated that nearly 64 per cent of Bolognese women aged eleven and over engaged in paid work, more than half of them working in the textile industry.⁵¹ Nicholas Terpstra has argued how, contrary to even

⁴⁵ De Moor and Van Zanden, 'Girl power', 8. These statements are reflected upon in B. Zucca Micheletto, 'Reconsidering the southern Europe model: Dowry, women's work and marriage patterns in pre-industrial urban Italy (Turin, second half of the 18th century)', *The history of the family* 16 (2011) 355; S.K. Cohn, 'Women and work in Renaissance Italy', in J.C. Brown and R.C. Davis (eds.), *Gender and society in Renaissance Italy* (London and New York: Longman, 1998) 114.

⁴⁶ Zucca Micheletto, 'Reconsidering the southern Europe model', 367; Bellavitis, *Il lavoro delle donne*, 7-13.

⁴⁷ Bellavitis, *Il lavoro delle donne*, 88-89.

⁴⁸ Cohen, 'To pray, to work, to hear, to speak', 289-311.

⁴⁹ Bellavitis, *Il lavoro delle donne*, 52; Groppi, 'A matter of fact rather than principle', 48; O. Niccoli, *Storie di ogni giorno in una città del seicento* (Rome: Laterza 2000) 60.

⁵⁰ Guenzi, 'L'identità industriale', 464-465. This was the same for Florence, see J.C. Brown and J. Goodman, 'Women and industry in Florence', *The journal of economic history* 40:1 (1980) 73-80.

⁵¹ Palazzi, 'Tessitrici, serve, treccole', 366-367; S. D'Amico, 'Shameful mother. Poverty and prostitution in seventeenth century Milan', *Journal of family history* 39:1 (2005) 110; Zucca Micheletto, 'Reconsidering women's labor force participation rates', 211.

other types of textile industries, 'silk towns' created an exceptional concentration of wealth in a handful of immensely wealthy merchants among a relatively small-number of well-off merchants while thousands of poorly paid and part-time workers lived in extreme poverty.⁵² The silk industry in Bologna thus not only enabled women's high rates of labour force participation by providing the demand for their relatively cheap labour, but also made their economic contributions indispensable for the survival of the household.⁵³

Although Bologna had long stood out among the papal territories for its wealth and relatively high standards of living, the economic crisis hit the city during the eighteenth century – roughly a century later than many other textile industry towns.⁵⁴ As a response to the unfolding economic crisis, the textile guilds had restructured the mode of production by abandoning the rich, elaborate and expensive textiles to concentrate on the production of the simpler, lighter and cheaper textiles that were predominantly manufactured through women's domestic production.⁵⁵ In the light of this restructuring, the incorporation of women into the guild system became increasingly important for the guilds' survival.⁵⁶ While women had originally been excluded from the Bolognese textile guilds at their foundation in the sixteenth century, the share of female masters in the silk guild rose from 7.5 per cent in the early seventeenth century to a massive 83 per cent in 1796.⁵⁷ Although this guild membership provided women with wage regulations, some forms of assistance and a recognised juridical status, it also introduced the economic burden of membership fees and an increase in the control over their labour, submitted them to guild jurisdiction and strict regulations regarding production without offering the chance of any real decision-making power.⁵⁸ Scholars have therefore questioned whether this was a positive development for women in the textile industries.⁵⁹

According to an important Bolognese census from 1796 carried out by the cardinal Legate with the aim of organising charity relief, another 8 per cent of Bolognese women

⁵² N. Terpstra, 'Working the cocoon. Gendered charitable enclosures and the silk industry in early modern Europe', in: K. Kippen and L. Woods (eds.), *Worth and repute. Valuing gender in late medieval and early modern Europe. Essays in honour of Barbara Todd* (Toronto: Center for Reformation and Renaissance studies, 2011) 48-49.

⁵³ Zucca Micheletto, 'Reconsidering the southern Europe model', 368.

⁵⁴ D. Dumont, 'Women and guilds in Bologna. The ambiguities of 'marginality'', *Radical History Review* 70 (1998) 6-7.

⁵⁵ Guenzi, 'L'identità industriale', 470; A. Guenzi, 'La tessitura femminile tra città e campagna. Bologna, secoli XVII-XVIII', in: S. Cavaciocchi (ed.), *La donna nell'economia secc. XIII-XVIII* (Florence: Le Monnier, 1990) 255, 257.

⁵⁶ Guenzi, 'L'identità industriale', 470-472; Dumont, 'Women and guilds in Bologna', 6, 17, 19.

⁵⁷ Guenzi, 'La tessitura femminile', 252, 255.

⁵⁸ Dumont, 'Women and guilds in Bologna', 19; Palazzi, 'Tessitrici, serve, treccole', 370; A. Groppi, 'Lavoro e proprietà delle donne in età moderna' in: R. Ago and A. Groppi (eds.), *Il lavoro delle donne* (Bari: Laterza 1996) 158.

⁵⁹ Dumont, 'Women and guilds in Bologna', 20-21.

worked in commerce and trade.⁶⁰ Throughout early modern Europe the rules of guilds often prevented women from becoming the official proprietors of commercial enterprises. In Bologna, one per cent of the labouring women were recorded as shopkeepers (*bottegara*), although it is assumed that women who operated and managed businesses on a *de facto* basis may have been far more numerous.⁶¹ While the official census data may well underestimate women's licit and illicit economic authority and autonomy in practice, the largest proportion of women probably worked in the lower ends of trade and retail. In the census, the overwhelming majority of Bolognese women listed as performing commercial activities worked as street or market sellers.⁶² The most common among them were the mobile resellers without a fixed place or a stall on the street or market in the city, selling foodstuffs such as fruits, vegetables, grain, bread and sweets and textiles.

An interesting feature of the Bolognese case is that these commercial activities do not appear to have been open to all types of women. Firstly, the late-eighteenth-century census reveals that nearly all women with commercial occupations were born in the city of Bologna.⁶³ The lack of migrants among those involved in retail and trade is indicative of the difficulty of accessing these occupations as immigrants and the importance of integration into the urban network. A second distinction that specifically applied to women was that commercial activities appear to have been exclusively performed by married women (two-thirds) or widows (one-third). The census data suggest that unmarried women were excluded from commerce and trade be it in the shops or out on the streets and markets. While it seems unlikely that daughters were never expected to work in their families' shops, it has been suggested that this exclusion was most likely related to the importance attributed to women's sexual honour and the necessity of protecting it by controlling the movements of unmarried women.⁶⁴

Unmarried women were actively involved in domestic service, which employed about one-fifth of the female workers in Bologna. Scholars have distinguished between a northern European and an Italian model of domestic service.⁶⁵ In the latter model,

⁶⁰ Palazzi, 'Tessitrici, serve, treccole', 374.

⁶¹ M. Palazzi, 'Economic autonomy and male authority. Female merchants in modern Italy', *Journal of modern Italian studies* 7:1 (2002) 20; Groppi, 'Lavoro e proprietà delle donne', 132; Palazzi, 'Tessitrici, serve, treccole', 374.

⁶² Palazzi, 'Tessitrici, serve, treccole', 373.

⁶³ *Ibidem*, 374.

⁶⁴ *Ibidem*.

⁶⁵ For the discussion of these models, see A. Arru, 'The distinguishing features of domestic service in Italy', *Journal of family history* 15:4 (1990) 548; Zucca Micheletto, 'Reconsidering women's labor force participation rates', 215-216; R. Sarti, 'The true servant: Self-definition of male domestics in an Italian city (Bologna, 17th-19th centuries)', *The history of the family* 10 (2005) 421.

servanthood was not a transitory life-cycle stage but a lifelong occupation. This was not only the case for female servants but also for their male counterparts, who predominantly served in aristocratic households and made up nearly half of the servant population in early modern Italian towns like Bologna.⁶⁶ However, contrary to male servants who could marry and establish their own households, entering service for women generally entailed living within the master's household while remaining celibate.⁶⁷ Another characteristic that fundamentally distinguished this occupation for men and women concerned the issue of social control. Scholars have argued that female servanthood was the object of social condemnation in early modern Italy, since working away from the protection of a male relative was regarded as endangering the girl's honour.⁶⁸ Because the female servants' sexual behaviour and honour reflected on the honour of the family that employed them, it has been suggested that a significant degree of control was imposed upon them, more so than on their male counterparts.⁶⁹ For seventeenth-century Milan and Florence it has been shown that the social control of female servants could furthermore be exerted by the various charitable institutions that sent some of the women they assisted into service for shorter or longer periods of time.⁷⁰ As service in itself was seen as a risk to a woman's sexual honour, these institutions tried to safeguard it through a careful selection of the masters they sent women to but also by threatening women with the loss of the dowry they could otherwise claim from the charitable institution in case of sexual transgression, or legal action against the deflowerer.

While concerns for women's sexual honour permeated many occupations, prostitution was not illegal in Italy. Protestant countries as well as France and Spain had made prostitution illegal by the early seventeenth century, Italian civic governments primarily treated prostitutes as fee- and fine-paying workers in the civic economy.⁷¹ In Bologna, the only consistently enforced legislation was the annual registration with the

⁶⁶ Italy is known for its comparatively high percentages of male servants compared to other European cities. See R. Sarti, 'Notes on the feminization of domestic service: Bologna as a case study (18th-19th centuries)', *Acta demographica* 13 (1997) 145; Sarti, 'The true servant', 421; Arru, 'The distinguishing features of domestic service in Italy', 549.

⁶⁷ Sarti, 'The true servant', 420; Palazzi, 'Tessitrici, serve, treccole' 372

⁶⁸ Zucca Micheletto, 'Reconsidering women's labor force participation rates', 216, Viazzo, 'What's so special about the Mediterranean?', 128; C. Klapisch-Zuber, 'Women servants in Florence during the fourteenth and fifteenth centuries', in B. A. Hanawalt (ed.), *Women and work in preindustrial Europe* (Bloomington: Indiana University Press, 1986) 70-75.

⁶⁹ D. Lombardi and F. Reggiani, 'Da assistita a serva. Circuiti di reclutamento delle serve attraverso le istituzioni assistenziali (Firenze-Milano, XVII-XVIII sec.)', in: S. Cavaciocchi (ed.), *La donna nell'economia secc. XIII-XVIII* (Florence: Le Monnier, 1990) 301-302; Arru, 'The distinguishing features of domestic service in Italy', 556.

⁷⁰ Lombardi and Reggiani, 'Circuiti di reclutamento delle serve', 301-319.

⁷¹ D'Amico, 'Shameful mother', 111; V.G. McCarthy, *Prostitution, community and civic regulation in early modern Bologna* (PhD thesis University of Toronto, 2015) 12.

Ufficio delle Bollette (the Office of Receipts) and the regular purchase of licences.⁷² The 0.5 to 1.8 per cent of the urban female population that were registered at the *Bollette* most likely represented the more established, long-term prostitutes.⁷³ Many others are believed to have resisted registration because they did not view themselves as prostitutes but rather regarded their extramarital sexual activity merely as a step towards marriage, only used their sexuality as a resource occasionally or temporarily, or had only one or few steady partners.⁷⁴ While studies on for example Florence have pointed to an increasing repression and even criminalisation after the middle of the seventeenth century, there is significant evidence that until that time both local authorities and residents were relatively tolerant of prostitutes and prostitution.⁷⁵ Recent scholarship has for example demonstrated that Bolognese and Roman prostitutes were incorporated into local city neighbourhoods and communities and were 'seen and known' rather than shunned and segregated.⁷⁶ They were furthermore integrated into the network of care that unfolded during this period. In addition to special convents for ex-prostitutes, dubbed the *Convertite*, shelters for fallen women were erected in many cities in Italy so that they could be socially cleansed and reinserted into society.⁷⁷

Interlocking systems of assistance and control

As the concerns about women in the urban economy already indicated, anxieties regarding women's unrestricted sexuality significantly affected not only those affiliated with prostitution but essentially *all* women in early modern Italy.⁷⁸ From the late fifteenth century onwards the poor were increasingly seen as a danger to society, especially the uncontrolled women who could use their sexuality as a resource and thereby constituted a liability to the family economy.⁷⁹ Centuries before the well-known custodial institutions in Victorian

⁷² McCarthy, *Prostitution, community and civic regulation*, 12, 212.

⁷³ Compare the total number of registered prostitutes in table 3.2 in McCarthy, *Prostitution, community and civic regulation*, 149 and the female population according to Bellettini, *La popolazione di Bologna*, 61.

⁷⁴ McCarthy, *Prostitution, community and civic regulation*, 238-240; T. Storey, *Carnal commerce in Counter-Reformation Rome* (Cambridge University Press, 2008) 119-122; D'Amico, 'Shameful mother', 109-120; L. Ferrante, 'La sessualità come risorsa. Donne davanti al foro arcivescovile di Bologna (sec. XVII)', *Mélanges de l'Ecole française de Rome* 99:2 (1987) 989-1016.

⁷⁵ J.K. Brackett, 'The Florentine Onestà and the control of prostitution, 1403-1680', *The sixteenth century journal* 24:2 (1993) 298-299.

⁷⁶ McCarthy, *Prostitution, community and civic regulation*, 210-211, 270; E.S. Cohen, 'Seen and known. Prostitutes in the cityscape of late-sixteenth-century Rome', *Renaissance studies* 12:3 (1998) 394

⁷⁷ N. Terpstra, *Cultures of charity. Women, politics and the reform of poor relief in Renaissance Italy* (Cambridge: Harvard University Press, 2013) 212, 215.

⁷⁸ *Ibidem*, 17.

⁷⁹ Brackett, 'The Florentine Onestà', 274; Terpstra, *Cultures of charity*, 59; L. Ferrante, '<<Malmaritate>> tra assistenza e punizione (Bologna secc. XVI-XVII)', in: *Forme e soggetti dell'intervento assistenziale in una città di antico*

England, integrated networks of semi-public charitable institutions emerged all over Italy from the sixteenth century onwards, seeking to correct, supervise and help 'problematic' women and girls.⁸⁰ This system consisted not only of orphanages, workhouses, prisons and conservatories, but also of dowry investment funds, institutions for mutual assistance and, importantly, a variety of enclosed shelters for women at the fringes of society. These institutions, which were also established in other parts of Catholic Europe, essentially aimed to guide women towards matrimony: it helped them save money for their dowry, helped battered women survive their bad marriages and helped the widowed to remarry.⁸¹

An important feature of these institutions is that they provided an extensive network that linked shorter and long-term care and control throughout women's different life stages. Nicholas Terpstra's sample of women who entered Bologna's *Casa del Soccorso di S. Paolo* – a sort of halfway house and reformatory for adulterous wives, concubines and prostitutes – is revealing in this regard.⁸² At least three of the fourteen women he studied subsequently went to other custodial homes to become servants and two other women entered a convent. Indeed, in the course of the seventeenth and eighteenth centuries, some Italian cities like Bologna are believed to have developed into an "interlocking and coordinated municipal system, with girls and women moved between institutions according to requirements of protection, instruction, correction or space."⁸³

Particularly the lay shelters and refuges for women at the fringes of society had an increasingly purgative edge to them that made charity, discipline and enclosure synonymous.⁸⁴ Although many charitable institutions set out to provide assistance to vulnerable women, they were not necessarily always admitted voluntarily. The *Pia Casa delle Malmaritate*, established in Bologna in 1563 for 'unhappily married women' for example took in women seeking voluntary refuge from their often violent marriages, but also housed 'difficult women' who could be admitted by their husbands or male kin for years on end.⁸⁵ In a similar mode, older institutions such as the *Ospedale degli Esposti*, a foundling home for

regime: Atti del IV colloquio (Bologna, 20–21 gennaio, 1984) (Bologna: Istituto per la storia di Bologna, 1986) 107; D'Amico, "Shameful mother", 110.

⁸⁰ S. Cohen, *The evolution of women's asylums since 1500. From refuges for ex-prostitutes to shelters for battered women* (Oxford University Press, 1992) 3, 8.

⁸¹ Terpstra, *Cultures of charity*, 17; Ferrante, 'Malmaritate tra assistenza e punizione', 93.

⁸² Out of the 24 entrants examined, the immediate futures of 14 women were known: 1 was murdered, 8 were expelled 3 were sent to custodial homes and 2 became nuns. See Terpstra, *Cultures of charity*, 214-215.

⁸³ S. Woolf, *The poor in Western Europe in the eighteenth and nineteenth centuries* (London and New York: Methuen, 1986) 25.

⁸⁴ Terpstra, *Cultures of charity*, 200, 215.

⁸⁵ Cohen, *The evolution of women's asylums*, 141; M. Cavina, *Nozze di sangue. Storia della violenza coniugale* (Rome: Laterza, 2011) 49-51; Ferrante, 'Malmaritate tra assistenza e punizione', 84-88.

illegitimate children, also became more punitive towards the mothers that abandoned them. Although instated as a measure to save the lives of children while allowing women to retain their good reputation, the *Esposti* began charging a 25 *lire* fee to abandon a child, one-sixth of an artisan's average annual wage.⁸⁶ If this sum could not be paid, as was the case for many poor working families, the mother had to move into a special dormitory to work for a year as an unpaid wet nurse. It has been argued that the costs of feeding and sheltering these young imprisoned mothers rendered the measure economically counterproductive, suggesting that it was less about economic logic than about disincentive and discipline.⁸⁷ This dual nature of assistance and control characterised many of the charitable institutions for women in early modern Italy.

Although the constellation of Italian custodial institutions did not principally target women with a criminal inclination, there was a link with deviance and punishment that has not been sufficiently explored in the literature. Alongside the women who entered the convents, workhouses and refuges on their own initiative, an unknown number of them were placed there by family members or magistrates for punitive enclosures.⁸⁸ In Victorian England, roughly a quarter of the women who appeared before the court on some criminal charge were sent to a custodial home by a magistrate without ever being convicted.⁸⁹ For early modern Italy, we lack such information about the procedures and acts that caused women to be placed in the early modern Italian enclosures. Nevertheless, criminal women *were* sometimes confined in custodial institutions. According to Sharon Cohen, former prostitutes, rape victims, rebellious girls, abused wives, displaced widows and “women who had committed a crime” were all brought together in these ‘custodial warehouses’ for troublesome, marginalized women.⁹⁰

Lay confraternities, civic rulers and church leaders all cooperated in this system of care and control.⁹¹ The example of illegitimate pregnancies is perhaps most illustrative for the interconnectedness of the various charitable, ecclesiastical and secular criminal institutions of control. In an attempt to prevent infanticide, Bologna's 1613 criminal by-laws added to the local bailiffs' tasks the responsibility for keeping an eye on unmarried pregnant

⁸⁶ Lombardi, 'Marriage in Italy', in S. Seidel Menchi (ed.), *Marriage in Europe, 1400-1800* (University of Toronto Press, 2016) 111; A. Bianchi, "L'elemosina di un bambino": Pratica e controllo dell'abbandono all'ospedale dei bastardini (secc. XVI-XVIII), *Sanità, scienza e storia* 2 (1989) 44.

⁸⁷ Terpstra, *Cultures of charity*, 250-251.

⁸⁸ Cohen, *The evolution of women's asylums*, 17, 36, 79; Terpstra, *Cultures of charity*, 213; Cavina, *Nozze di sangue*, 48.

⁸⁹ Zedner, *Women, crime and custody*, 288.

⁹⁰ Cohen, *The evolution of women's asylums*, 36, 45, 63.

⁹¹ Black, *Early modern Italy*, 204; D. Lombardi, 'Famiglie di antico regime', in G. Calvi (ed.), *Innesti. Donne e genere nella storia sociale* (Rome: Viella, 2004) 206-207.

women until they relinquished the new-born to the *Esposti* foundling home.⁹² From 1645 onwards, another ordinance furthermore obliged midwives to denounce 'irregular pregnancies' to the *Tribunale del Torrione*. In practice, however, these events were by no means solely a concern for the secular criminal authorities. Giancarlo Angelozzi and Cesarina Casanova have argued that when pre- or extramarital pregnancies came to light local officials, contrary to the rules, most likely dealt with them informally.⁹³ Rather than denouncing them formally to the criminal court, they were first brought to the attention of the religious authorities and the ecclesiastical court in order to assess whether a marriage could be arranged. If this effort proved unsuccessful, the pregnancy was reported to the guardian of the foundling home, where the mother (or her midwife) was expected to leave her child upon birth.⁹⁴ Only as a last resort did notices of illegitimate pregnancies reach the criminal court, revealing the many interconnected institutions of control that came before it.

The web of institutions of control for early modern Italian women was vast, connecting neighbourhood communities, and civic and charitable institutions as well as the ecclesiastical and secular authorities.⁹⁵ This institutional intrusion – seeking above all to preserve and restore the honour of women and their families – not only constituted repression but also offered opportunities to women in early modern Italy, in the very least in the sense of a safety net. It was furthermore not uncommon for women or their kin to bring cases before courts themselves. Especially when they were pregnant, women stood fairly good chances before either the ecclesiastical court to appeal to the binding nature of a marriage promise, or before the secular criminal court to file a suit for a non-violent rape, hoping to negotiate either a marriage arrangement or to be dowered.⁹⁶ When these types of cases came before the court during the early modern period, the women were convicted only in rare cases.⁹⁷ While these legal options for deflowered women deteriorated in the eighteenth century, the system of care and control on the Italian peninsula was still rather

⁹² Angelozzi and Casanova, *Donne criminali*, 109-110.

⁹³ *Ibidem*, 110-111.

⁹⁴ Bianchi, 'L'elemosina di un bambino', 42-43; Bianchi, 'Madri e padri davanti al Tribunale arcivescovile', 42.

⁹⁵ Lombardi, 'Marriage in Italy', 111.

⁹⁶ G. Arrivo, *Seduzioni, promesse, matrimoni. Il processo per stupro nella Toscana del settecento* (Rome: Edizioni di storia e letteratura, 2006) 202; Lombardi, 'Marriage in Italy' 105; N. Terpstra, 'Real and virtual families. Forms and dynamics of fostering and adoption in Bologna's early modern hospitals', *Mélanges de l'École française de Rome – Italie et Méditerranée modernes et contemporaines* 124-1 (2012), DOI: 10.4000/mefrim.266, 5.

⁹⁷ Arrivo, 'Sposarsi in tribunale. Sessualità e matrimonio nella Toscana del settecento', *Storicamente* 6 (2010), DOI: 10.147/stor84 (accessible via <http://dx.doi.org/10.1473/stor84>) 2; Ferrante, 'La sessualità come risorsa', 1013; G. Ruggiero, *The boundaries of Eros. Sex crime and sexuality in Renaissance Venice* (New York: Oxford University Press, 1985) 42.

extensive compared to other regions in Europe, affecting the lives of a wide range of 'problematic women'.⁹⁸

Conclusion: Agency within a culture of constraint

The aim of this chapter was to examine the social, economic and legal position and roles of women in the urban fabric of early modern Bologna. Based on secondary literature, it sought to re-examine older notions regarding a dichotomy between 'northern' and 'southern' European societies in which ideas about supposed 'southern' family systems, nuptuality, regulations concerning inheritance and dowry and labour participation have led to a pessimistic view of the position of women. This image has since then been contended and complicated by scholars who argue that a simple contrast between a free north and a restrictive southern Europe does not do justice to the social complexities and dynamics of either region.

A persistent scholarly presumption is that a range of structural contours of life on the Italian peninsula was uniquely disadvantageous to women vis-à-vis other European contexts. Italian women were denied active possession of their dotal assets, did not have an equal share in their fathers' patrimonies and furthermore had significantly limited capacity to own and transmit property. Yet the extent to which these legal restrictions effectively curtailed women's agency in these fields has been subject to debate. Not only has the direct link between the dowry system and women's presumed passiveness been dispelled, scholars working on Italy have also located female agency in women's circumvention of their limited legal rights through the manipulation of legal resources. The extensive network of interlinking charitable and civic institutions that enclosed up to one-fifth of the urban female population is also viewed as playing an ambiguous role. Aside from the strategies for lineage preservation strategies of patrician women, these convents, shelters and workhouses functioned as a means for controlling and disciplining women but simultaneously provided marginal women with a safety net outside of the family structure.

⁹⁸ Ferraro, *Nefarious crimes, contested justice. Illicit sex and infanticide in the Republic of Venice, 1557-1789* (Baltimore: The John Hopkins University Press, 2008) 7; Bianchi, 'Madri e padre davanti al Tribunale arcivescovile', 63; Arrivo, *Seduzioni, promesse, matrimoni*, 20; S. Cavallo and S. Cerutti, 'Female honor and the social control of reproduction in Piedmont between 1600 and 1800' in E. Muir and G. Ruggiero (eds.), *Sex and gender in historical perspective* (Baltimore: The John Hopkins University Press, 1990) 100; Sandri, 'Matrimoni mancati. 'Pericolate' e 'gravide occulte' dell'ospizio di Orbatello di Firenze nel XVIII e XIX secolo' in: M. Lanzinger and R. Sarti (eds.), *Nubili e celibi. Tra scelta e costrizione (secoli XVI-XX)* (Florence: Udine, 2006) 73; Lombardi, 'Marriage in Italy', 107.

There were also important ways in which Italian towns did not differ as much from those in northern Europe as generalised assumptions about the 'south' would have us believe. In fact, Bologna as well as other northern and central Italian towns possessed many of the characteristics generally attributed to the freer northern Europe. The city had, for example, a prevalence of nuclear families, a comparable share of female-headed households and proportions of women active in the urban labour markets that were comparable to or even higher than those observed in the north of Europe. The historiographical examination of the legal, social and economic structures has thus indicated that stereotypes of radical passivity and seclusion do not capture the complex realities of most Italian women's lives. Since they attest to the discrepancy between norms and practice by their very nature, this book will employ criminal court records to probe the extent to which women were able to display agency in their licit and illicit conduct while navigating this culture of constraint.

CHAPTER 3. THE *TORRONE* AND ITS INVESTIGATION AND PROSECUTION OF CRIMES

On 6 June 1654 a surgeon from one of Bologna's hospitals reported Carlo Masina's severe and 'suspicious' wounds to the criminal court.¹ Upon interrogation, the dying Carlo pointed to three men (Domenico Pino and Francesco and Alessandro Lambertini) and one woman (Diamante, Domenico's wife) as the culprits. Earlier Carlo had seen Domenico talking to 'certain persons' in one of the city's many taverns and had mentioned that his behaviour did not befit a *gentiluomo* (gentleman), but a *becco fotuto* (fucking cuckold). Because of this they got into an argument, which escalated a day later when Domenico was waiting for him with a drawn sword, accompanied by his wife Diamante and the Lambertini brothers. When Carlo tried to duck the stones Diamante and the brothers were throwing at him, Domenico struck him with his sword, causing wounds which would eventually prove fatal for Carlo. Domenico was able to turn the capital punishment he received into a pardon through a peace accord and the Lambertini brothers were exiled. Although her role in the homicide was similar to that of the brothers, no sentence is recorded for Diamante.

While the criminal court records do not provide any information as to why Diamante got off so lightly compared to her male co-offenders, perceptions of gender may well have been at play. After all, differences in recorded and prosecuted crime are linked to moral and legal norms which varied over time and space. They differed according to offence category as well as the 'quality' of the offender and victim – gender being one of the constituents that the authorities took into consideration when judging a crime. This chapter examines the relationship between criminal prosecution patterns and gender in early modern urban Bologna through the lens of the authorities. By examining both some normative writings such as the city's criminal by-laws and a sample of the *Tribunale del Torrone's* investigation dossiers (*processi*), it sheds light on the legal attitudes and practices of prosecution that played a significant role in shaping women's encounters with the law in urban Bologna.

This chapter begins with an overview of the legal landscape and the organisation of the criminal justice system in early modern Bologna. It then discusses how criminal justice was administered, what procedures it followed and what prosecutorial priorities it established in the criminal by-laws. This shows that although the procedures and laws in themselves may appear relatively neutral, they provided the responsible magistrates with

¹ ASBo, Torrone, 6670, fasc. 3.

ample space for a gender-specific treatment of crime. The next section will examine to what extent this legal latitude carried through into practice. Based on the *Torrone's* formal investigation dossiers (*processi*), it scrutinises women's proportional involvement in prosecuted crime, for what crimes women and men appeared before the criminal court and lastly, the nature of gendered sentencing patterns. By doing so, it distinguishes two distinct features of women's crimes in early modern Bologna (a low share of female offenders among investigated crimes and the significant role of violence), and theorises about its causes.

The Tribunale del Torrone within Bologna's legal landscape

Bologna's early modern lay criminal court, the *Tribunale del Torrone*, was established in around the 1530s and was the result of both local political pursuits and broader, widespread reform efforts. From the perspective of the latter, civic and ecclesiastical authorities across northern Italy reformed their governmental and judicial structures throughout the sixteenth and seventeenth centuries.² They did so by specifying the focus of existing courts and civic institutions and secondly by rationalising and bureaucratising their methods. This entailed the creation of new bodies and the abolishment or redistribution of others, as well as changes to the cities' judicial systems. The emergence of the *Torrone* can thus be viewed from the perspective of these reforms aiming to streamline governmental, administrative and judicial systems throughout Italy.

Local interests also played a role in the emergence of the *Torrone*. Established some decades after the conquest of the city of Bologna by Pope Julius II and the expulsion of the Bentivoglio oligarchs, the establishment of a new criminal court was also intimately tied to the papal quest to consolidate and expand its power over the territory.³ Incorporated into the Papal States, the city retained a high degree of autonomy through contracts signed between the city and the pope following each new papal appointment. Within this 'republic by contract', as Angela De Benedictis has called it, the papal legate worked in cooperation with the civic Bolognese Senate, made up of local noble families.⁴ From this perspective, the establishment of the *Torrone* has been viewed as springing forth from the wish to firmly insert papal representation into the justice system through the direct operation of the criminal and civil courts.

² McCarthy, *Prostitution, community and civic regulation*, 119-120.

³ Rose, *Homicide in North Italy*, 61; M. Cavina, 'I luoghi della giustizia', in: A. Prosperi (ed.), *Bologna nell'età moderna (secoli XVI-XVIII)*. Tomo 1. Istituzioni, forme del potere, economia e società (Bologna: Bononia University Press, 2008) 380.

⁴ De Benedictis, 'Repubblica per contratto', 59-72.

The 1530s saw not only the establishment of the *Tribunale del Torrione*, which held criminal jurisdiction, but also that of two other courts: the *Tribunale di Rota* and the *Tribunale civile del Legato*. The establishment of the *Torrione* in 1530 and the *Rota* five years later meant that a separation between the administration of civil and criminal justice had been realised.⁵ The *Rota* was established as Bologna's main civil court and dealt with cases involving monetary amounts over 100 *lire*, as well as the cases that involved the Bolognese oligarchy.⁶ Despite the papal wish to assert its control, it was Bologna's Senate that remained in charge of appointing the judges adjudicating civil matters before this supreme civil court.⁷ Soon after the establishment of the *Rota*, a second civil court under the name of the *Tribunale civile del Legato* was set up. This was a court of first instance in which a judge appointed by the papal legate adjudicated in relatively 'simple' civil matters. It was ostensibly designed to render justice more quickly than the *Rota*, but Marco Cavina has argued that the legate's civil court was also installed to establish its authority over such issues and challenge the oligarchy's claim as the primary authority.⁸

The papal government did succeed in gaining control over Bologna's criminal justice apparatus. Named the Tribunal of the Great Tower after the site of its court and prison in Bologna's main square, the *Tribunale del Torrione* replaced the medieval podestarial court and gradually swallowed the jurisdiction from the medieval *Ufficiali di contado* over ca. 4,000 square kilometres of surrounding countryside villages.⁹ Claiming monopoly over criminal justice was paramount to the papal government's aim to undercut the power of the rebellious local elite. Erecting a new centralised criminal court entailed stripping away the nobles' rights to exercise justice, which had occurred in the city by influencing the operations of the podestarial court, and in its rural hinterlands through private courts.¹⁰ The consolidation of the *Torrione* in Bologna was a process that lasted almost a century and a half. According to Colin Rose, it took until the second half of the seventeenth century when, in 1664, the leading members of the rebellious nobility was expelled from Bologna's territory.¹¹ As will be argued in chapter 4, the provision of a free, efficient and relatively reliable forum for conflict resolution in the shape of the *Torrione* was an important means in this endeavour.

⁵ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 24.

⁶ McCarthy, *Prostitution, community and civic regulation*, 121; Cavina, 'I luoghi della giustizia', 381.

⁷ Cavina, 'I luoghi della giustizia', 380; Angelozzi and Casanova, *La giustizia in una città di antico regime*, 21-29.

⁸ Cavina, 'I luoghi della giustizia', 382-386.

⁹ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 111-115.

¹⁰ *Ibidem*, 21; Angelozzi and Casanova, *Donne criminali*, 59.

¹¹ Rose, *Homicide in North Italy*, 64.

Like elsewhere in the early modern period, Bologna's legal landscape was varied and complex. In general, early modern justice had a patch-work nature and was characterised by a multiplicity of courts. Bologna was no different. The aforementioned three main tribunals existed within a landscape with various other judicial institutions that sometimes held overlapping jurisdictions. Figure 4 shows the various formal institutions that had jurisdiction on criminal, civil and ecclesiastical matters in Bologna during the seventeenth and eighteenth century. While a variety of civil courts dealt with the provisioning of the city, and with trade and weights, others regulated trade disputes related to crafts, trade and bankruptcies. All aspects of prostitution were regulated by the *Ufficio delle Bollette*, and the archbishop's tribunal (*Foro Arcivescovile*) dealt with crimes of the clergy as well as marriage disputes and sexual improprieties of the laity.

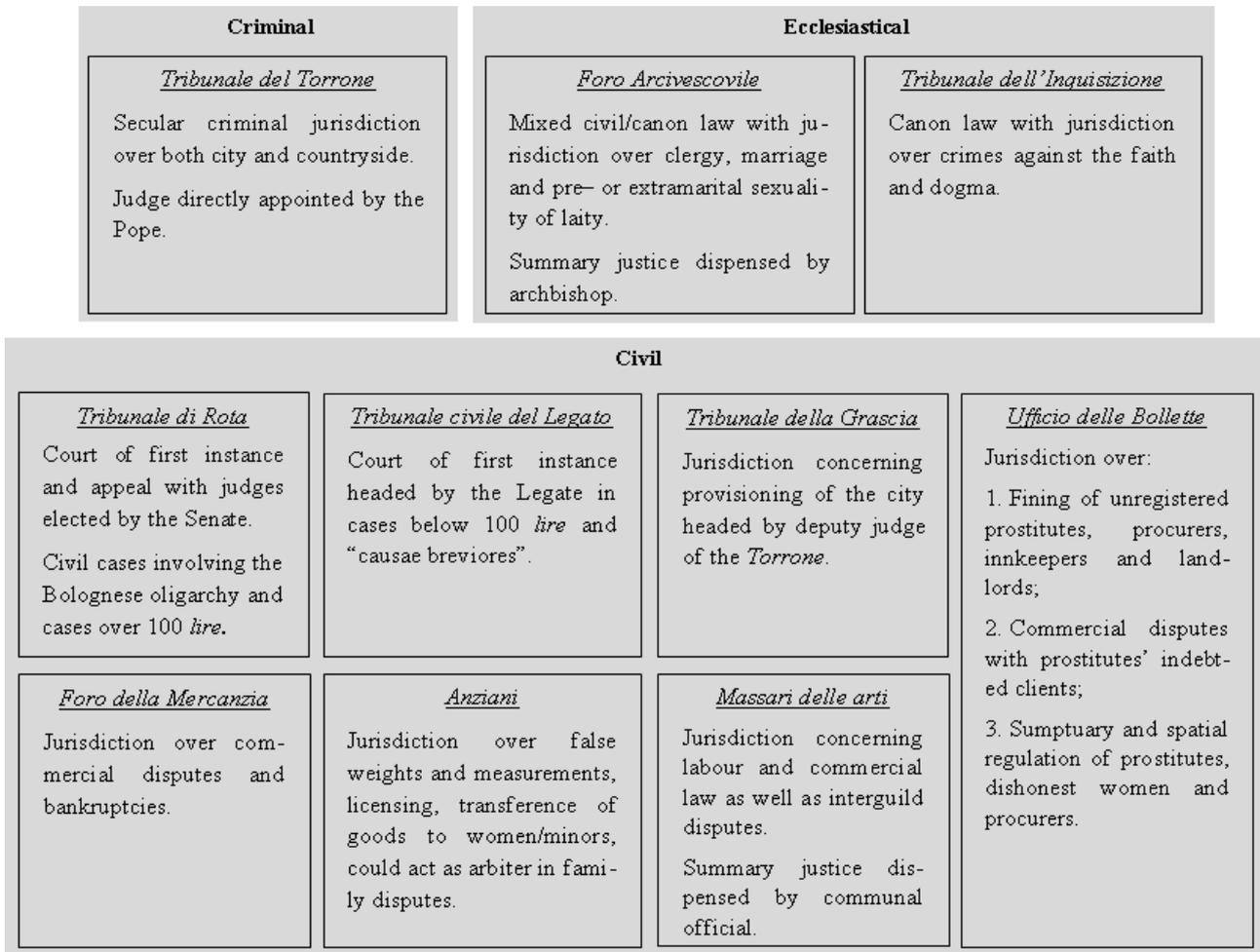
Although the competences and jurisdictions of these institutions were increasingly defined through judicial reforms, boundaries of jurisdiction between these courts remained blurred and overlapped with others. This was, for example, the case for the control of prostitution, which had in Bologna been assigned to the *Ufficio delle Bollette* (the Office of Receipts) since the second half of the sixteenth century. The *Bollette's* tribunal was responsible for fining the women who worked as prostitutes but had failed to register, for dealing with commercial disputes regarding the indebtedness of their clients and with prostitutes' transgressions of local sumptuary and spatial restrictions. In her study on prostitution in sixteenth- and seventeenth-century Bologna, Vanessa McCarthy suggests that the responsibility for this latter mandate was most likely largely reassigned to the *Torrone* and/or the archbishop's court – even though prostitution itself was not criminalized.¹² Although there is little evidence that this was actively enforced by either of these tribunals, it demonstrates the blurred boundaries of early modern judicial practice.

Historians have noted that it was not only the court's competences that determined which cases were brought before which forum, but that the preferences of the plaintiffs were also decisive. Marco Cavina, for example, describes how domestic violence could – at least theoretically – be denounced to either the secular criminal court, for injury, or to the ecclesiastical court as a request for separation.¹³ Daniela Lombardi has made a similar argument for cases of 'non-violent rape' (*stupro*, in this case meaning broken marriage promises after having had sexual relations), which could be brought before the ecclesiastical

¹² McCarthy, Prostitution, community and civic regulation, 122-124, 125-127.

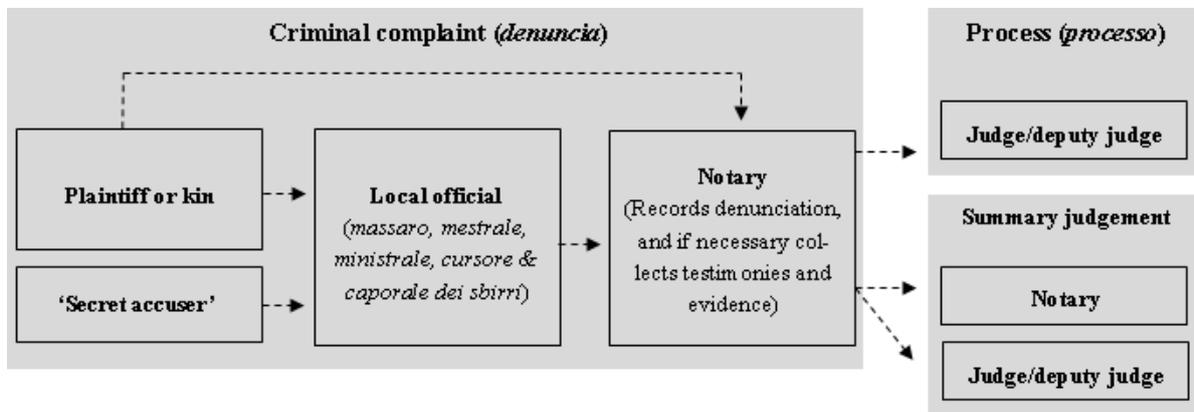
¹³ M. Cavina, *Nozze di sangue. Storia della violenza coniugale* (Rome: Laterza, 2011) 111.

FIGURE 4. BOLOGNA'S FORMAL LEGAL LANDSCAPE, CA. 1530-1796



Sources: Information derived from M. Cavina, 'I luoghi della giustizia', in: A. Prosperi (ed.), *Bologna nell'età moderna (secoli XVI-XVIII). Tomo 1. Istituzioni, forme del potere, economia e società* (Bologna: Bononia University Press, 2008) 367-412; M. Bellabarba, *La giustizia nell'Italia moderna* (Bari: Editori Laterza, 2008); V.G. McCarthy, *Prostitution, community and civic regulation in early modern Bologna* (PhD thesis University of Toronto, 2015).

FIGURE 5. ACTORS IN THE JUDICIAL PROCESS IN EARLY MODERN BOLOGNA, CA. 1530-1796



and the secular court depending on the aim of the plaintiff. From the criminal court a plaintiff could be asked to be dowered, while a marriage fulfilment could only be enforced by the ecclesiastical authorities, as marriage was considered a sacrament.¹⁴

Despite this legal pluralism and the overlap of jurisdictions in particular instances, scholars have indicated that for many types of cases there was a rough subdivision with regard to which court dealt with what kind of case. Lucia Ferrante noted that while adultery was an offence that could theoretically be adjudicated before both ecclesiastical and secular forums, the latter hardly ever did so in practice in seventeenth-century Bologna.¹⁵ With regard to the control of women's sexuality in early modern Bologna, she therefore argues for the existence of an institutional equilibrium between the *Bollette's* control of prostitutes, the archbishop's court of other miscellaneous sexual misconduct and the *Torrone's* overall non-interference with regard to these matters.¹⁶ Competences, judicial traditions and plaintiffs' preferences thus all played a role in how Bologna's early modern legal landscape was navigated by its inhabitants.

The administration of criminal justice

The administration of criminal justice relied on a range of different actors with roles in the various stages. Figure 5 reflects this process. In essence, criminal justice in early modern Bologna was administered by a single judge: the *uditore* or *auditore* of the *Torrone*. These judges were directly appointed by the Pope and their activities were only submitted to the control of the cardinal legate who was installed as city governor, or the vice-legates that substituted for him in times of his absence.¹⁷ Nevertheless, the judges are described as serving with full authority, even attracting a reputation for autocracy as their post was only limited by the judge's age and interest. Unlike their medieval Bolognese and contemporary Florentine counterparts, who were foreigners serving in rotating terms of between two and six months in a bid to guarantee impartiality, the judges of the *Torrone* could serve long terms, which gave them a wide knowledge of and deep investment in the daily matters of city and countryside.¹⁸ The judge was aided by two to four deputy judges (*sott'uditori*), who

¹⁴ Ibidem; Lombardi, 'Marriage in Italy', 107.

¹⁵ Ferrante, 'La sessualità come risorsa', 992.

¹⁶ Ibidem, 996.

¹⁷ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 43-45.

¹⁸ Rose, *Homicide in North Italy*, 68.

assisted the judge with cases outside of the city. They could dispense judgements, which were reviewed and confirmed by the judge.¹⁹

The brunt of the *Torrone's* work rested on the shoulders of eight notaries. Formally, their tasks were limited to the documentation relating to the court's investigations, from denunciation and testimonies to the sentencing, supplication and pardons. However, according to Giancarlo Angelozzi and Cesarina Casanova, the criminal court's enormous workload resulted in the notaries often also interrogating witnesses and collecting the evidence, particularly in cases of small importance and in those in the countryside, before reporting their findings to the judge, who evaluated the evidence and pronounced sentence.²⁰ One of the eight notaries was designated the *caponotaio*. This chief notary appointed the other seven notaries who shared equal competences to hear cases according to a rotating schedule.²¹ This meant that all notaries worked on cases from the city and from the countryside and that they did not specialise in certain kinds of crimes.

Information about crimes reached the *Torrone* through a 'network of information'. This network consisted of various informants who together – according to Giancarlo Angelozzi and Cesarina Casanova – formed a much more efficient system of social control and surveillance than what is often assumed for the pre-Napoleonic Papal States.²² Firstly, the criminal court was supported by a staff of rudimentary lawmen known as the *sbirri*, headed by a *baroncello* or *bargello* (a chief constable), who were tasked with keeping order in the city and arresting delinquents. This pre-modern police force is estimated to have consisted of 100 lawmen and the cost of its maintenance was subject to continuous protest by Bologna's Senate.²³ The expenses were not the only objection against the *sbirri*. According to various scholars, these lawmen were recruited from the poorest classes and were renowned for being violent and corrupt and, being paid for each successful arrest, they had "a greedy zeal that blackened their repute."²⁴ On the other hand, their contacts within the seedier side of society could also advance cases, providing knowledge about the identity and whereabouts of robbers and killers. The lawmen were responsible for a variety of tasks, such as collecting witnesses and transporting them to the *Torrone*, the delivering of citations and

¹⁹ Ibidem, 69.

²⁰ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 49.

²¹ Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 11.

²² Angelozzi and Casanova, *Donne criminali*, 65.

²³ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 51-52.

²⁴ S. Hughes, 'Fear and loathing in Bologna and Rome. The papal police in perspective', *Journal of social history* 21 (1987) 98; Cohen and Cohen, *Daily life in Renaissance Italy*, 117-118.

summons and the protection of notaries and judges.²⁵ It was through them that public order offences came before the *Torrone*, since the *sbirri* were also tasked with patrolling the city streets at night to ensure compliance with weapon regulation and public ordinances.

Secondly, in their tasks the lawmen were aided by so-called 'friends of the court', i.e. informants who provided them with tips and information on crimes that were recently committed or the location of fugitives. These court informants were frequently tarred as 'spies'; an insult that was commonly heard in the Bolognese streets, also against crime victims who wanted to take their grievances to court. Examinations of court records indicate that authorities in cities such as Rome, Venice and Bologna often made use of these informants, but that they were less common in rural settings.²⁶ Some of these informants worked in the open and were known to the court, working as couriers and messengers, or were long-time contacts of the court, such as cursors. Others remained anonymous and were only referred to in the court records as 'secret friends of the court'. They either denounced crimes on their own accord, or provided information through the aforementioned lawmen. Together these informants formed a crucial link in the network of information and intelligence that allowed Bologna's early modern criminal court to operate.

Thirdly, surgeons and barbers of the city's major hospitals also formed an important source of information for the *Torrone*. The homicide case of Carlo Masina with which the chapter opened, for example, started with a report from the surgeon who treated his wounds. It was not uncommon for information about instances of serious and less serious violence to reach the court in this way. After all, from the sixteenth century onwards, Bologna's criminal by-laws dictated that physicians were required to denounce 'suspicious injuries' that they treated. There were similar obligations for barbers and other medics in Rome, Lucca, Venice and Verona.²⁷ Bologna's 1610 summation of the criminal by-laws states that medical practitioners (*medici, chirurgici, barbieri, speciali & simili*) had to report any injury suspected of having been caused feloniously to either the *Torrone's* chief-notary or to one of the local bailiffs outside of the city within a day of the incident.²⁸ These reports had to include a description of the wounds, their severity, what weapons may have caused them and, if possible, the name of the assailant. The penalty for failing to denounce was a hefty

²⁵ Rose, Homicide in North Italy', 71.

²⁶ Ibidem, 72; Cohen and Cohen, *Daily life in Renaissance Italy*, 118.

²⁷ P. Blastenbrei, 'Violence, Arms and Criminal Justice in Papal Rome, 1560-1600', *Renaissance Studies* 20 (2006) 70; A. Pastore, *Il medico in tribunale. La perizia medica nella procedura penale d'antico regime (secoli XVI-XVIII)* (Bellinzona: Edizioni Casagrande, 1998) 107-108, 150, 176 and 193; Rose, Homicide in North Italy, 77-78.

²⁸ *Bando generale dell'illustrissimo, e reverendissimo sig. Benedetto card. Giustiniano legato di Bologna, pubblicato alli 23. di Giugno, & reiterato alli 24. di Luglio 1610* (Bologna 1610) Capitolo XXXI, page 64.

fine of 50 *scudi* per case.²⁹ The purpose of this obligation was to bring the numerous acts of violence to the attention of the authorities. According to Peter Blastenbrei, who examined these physician's reports for sixteenth-century Rome, many of these "hundreds and thousands" of violent acts would otherwise have gone unnoticed, given the "notorious reluctance of the Roman population to give information to the justice."³⁰ Not only did many victims claim to have been injured as a result of an accident, an unusually high number of unknown or masked aggressors were described. Between 1560 and 1583 only 1.3 per cent of the wounded Roman patients were willing to denounce their aggressors.³¹ By the mid-seventeenth to mid-eighteenth centuries, however, such reluctance was far less apparent among the Bolognese subjects. In urban Bologna, about one-fifth of the cases of physical violence came under the court's purview because of these medical practitioners' reports. Only five victims (out of 123 reports in my sample) described their injuries as accidental and only fifteen describe not knowing the aggressor at all. In Bologna, the medical reporting on suspicious wounds therefore served as a significant instrument of criminal prosecution.

Fourthly, and importantly, the *Torrone's* network of information relied on various officials who acted as local bailiffs. For the countryside, the *Torrone's* main access point was the *massaro*. This was a local official appointed from the local ranks on an annual basis and who was responsible for relaying crimes that occurred in his jurisdiction (usually one, but sometimes two or three villages) to the *Torrone*.³² The suburban and urban counterparts of this office were that of the *mestrale* and *ministrale* and were organised at parish level. The officials served both as the *Torrone's* contact in the area and also as the source of public knowledge of and participation in justice.

While a denunciation by one of these local officials proved to be crucial to the court's decision to start an official investigation, Bolognese men and women were also able to make a denunciation to the court's notary in person. This option is rarely discussed in the historiography on criminal justice, but, as will be argued in the next chapter, was pivotal to women's ability to employ the court to their benefit. Despite the frequent occurrence and the importance of these individual denunciations in the urban setting, the existence of this knowledge network of official and semi-official informants that spanned from the city to the

²⁹ A university-trained doctor could earn up to 500 *scudi* a year. By comparison, the average eighteenth-century urban day labourer earned 1 *scudo* a month. A barber-surgeon would earn something in between. See Pastore, *Il medico in tribunale*, 192; Arru, 'The distinguishing features of domestic service in Italy', 554.

³⁰ Blastenbrei, 'Violence, arms and criminal justice', 71.

³¹ *Ibidem*, 73.

³² Rose, *Homicide in North Italy*, 72-73, 76.

far reaches of the countryside is important to the understanding of the workings of Bologna's criminal court during the early modern period.

Criminal procedures

The statutes of the *Torrone* were issued in 1541 through a Papal proclamation entitled *Reformationes Turroni Bononiae*.³³ These statutes laid out the procedures and compensation of judges and notaries in criminal cases falling under the *Torrone*. According to Colin Rose, who has examined the *Torrone's* criminal procedures in detail, various phases can be distinguished. Upon the occurrence of discovery of a crime, the victims or witnesses were obligated to inform their local officials. In this first phase, these officials denounced the crime to a notary of the criminal court. With the denunciation having been made, the notary then decided if the case warranted a summary procedure or a full investigation. For small offences such as a simple complaint about verbal aggression among commoners the notary recorded the complaint in his casebook and generally waited until the parties reached an agreement.³⁴

With more serious crimes such as homicide, assault resulting life-threatening wounds, robbery, theft and arson, the notary investigated the crime and gathered information, which he then reported to the judge. This investigation constituted the beginning of a full inquisition, which began with an investigation of the immediate facts of the crime. In the case of homicide, this entailed an inspection of the body by the notary and two locals who knew the victim. For theft this meant an inspection of the damages done to the house or shop from which items were taken.³⁵

The third phase, after the denunciation and the *in situ* investigation, was the interrogation of witnesses. The number of testimonies that were collected depended on the type of crime that was committed, the victim's status, the notary's personal preferences and the outcome of the other interrogations. In the case against Alessandro Bernardi, a barber who stabbed goldsmith Giuseppe Gualli on the street when he thought Gualli was reaching for his weapon in 1675, only one eyewitness was interrogated before the case was withdrawn and the offender absolved.³⁶ On the other hand, no fewer than 23 witnesses testified against reseller Margarita Cesare, who was eventually sentenced to public lashing and exile for

³³ ASBo, *Bandi e notificazioni*, Serie I, No. 3, fol. 95.

³⁴ Rose, *Homicide in North Italy*, 78.

³⁵ *Ibidem*, 79.

³⁶ ASBo, *Torrone*, 7028, fasc. 6.

swindle.³⁷ The initial list of witnesses was compiled based on the denunciation and the initial investigation, and these witnesses received citations with increasingly severe fines if they did not show up to give their testimonies. After this initial round of interrogations, further citations could be issued by the court officers, also summoning the accused for interrogation on penalty of a heavy fine, corporal punishment or the risk of being killed with impunity.³⁸

Defendants were questioned in a closed room and were generally without counsel and unaware of the charges, accuser and evidence.³⁹ When the aforementioned Margarita Cesare was arrested for questioning, she stated that she was not given the reason.⁴⁰ In general, the interrogator first circled around the issue, collecting clues and looking for inconsistencies and when stories did not match up they could confront the defendant with other testimonies at their discretion. Margarita's portrayal of her actions as an honest, single mistake, for example, became increasingly unconvincing when confronted with a range of testimonies revealing a chain of subsequent swindles of many different victims. As a legal proof, a conviction required strong evidence in the form of a confession or two credible witnesses. Lacking good witnesses, it remained within the *Torrone's* competency for the magistrates to decide to apply torture. However, like elsewhere in early modern Europe, its use declined significantly in Bologna during the seventeenth century.⁴¹

After the interrogations, the evidence compiled by the notary was passed on to the judge, who reviewed the case and pronounced sentence. How judges came to their sentencing has largely remained elusive to historians, as sentences lacked any explanation in the court records. At the same time judges had great *arbitrium* with which they could determine punishments according to the qualities of the crime, the victim and the criminal. Fragmented as the Italian peninsula was politically, there was no single criminal code for the region during the early modern period. It was not until the Zanardelli Code of 1889 that penal legislation was unified for Italy. Before that, various territories had started penning their own civil, criminal and commercial codes following the demise of Napoleon after 1814. Alongside Tuscany, Naples and Piedmont-Sardinia, the Papal States too promulgated a penal code in 1832.⁴² Before the introduction of these nineteenth-century penal codes, the legal system in the Italian territories was shaped by two different legal traditions. The first

³⁷ ASBo, Torrone, 7072, fasc.o 1.

³⁸ Rose, Homicide in North Italy, 82.

³⁹ Cohen and Cohen, *Daily life in Renaissance Italy*, 119.

⁴⁰ ASBo, Torrone, 7072, fasc. 1, fol. 6: "[...] e la causa per la quale sono stata presa priggione e che hora mi vuole essaminare io non lo so se non mi si dice."

⁴¹ Rose, Homicide in North Italy, 81; Angelozzi. and Casanova, *Donne criminali*, 230.

⁴² *I Regolamenti penali di Papa Gregorio XVI per lo Stato Pontificio* (1832).

was the *ius commune* based on the Justinianic texts of Roman civil law and texts of canon law and the second the *ius proprium*, i.e. various local, municipal or regional corpuses of legislation.⁴³ From the early thirteenth century onwards, the community of Bologna had started issuing civil and criminal statutes, laying down the city's basic legislation and customs in Latin.⁴⁴

During the early modern period, one of the best sources to gauge Bologna's norms regarding prosecution and sentencing was not the civic statutes but the collection of criminal by-laws. Throughout the papal rule over Bologna, the ruling legates provided general regulations for penal justice in the form of proclamations (*bandi*) that according to Paolo Prodi made the civic statutes redundant without formally abolishing them.⁴⁵ At the beginning of his legateship over Bologna, each papal legate issued or renewed a *Bando Generale*; a collection of proclamations that specified the definitions and sanctions of crimes for the territory of Bologna. For the seventeenth and eighteenth centuries there were two of these summations of the city's criminal by-laws that were of major importance: that of 1610 and that of 1756. Legate Benedetto Giustiniani's *Bando Generale* was issued on 23 June 1610 and remained largely unaltered until the middle of the eighteenth century. In 1756 Legate Fabrizio Serbelloni revised the criminal by-laws significantly following Pope Benedetto XIV's constitutional reforms of criminal justice a decade earlier.⁴⁶ These sought to regulate the criminal procedures within its territory, increase its transparency and curb some of its abuses.⁴⁷ It is generally assumed that this new summation of the criminal by-laws reflects changes in the attitude towards penal justice going back to the turn of the century.

Although the much more elaborate treatment of crimes and their sentences in the 1756 *Bando Generale* clarified many of the obscurities from the past century, it above all provided a normative guideline rather than a reflection of contemporary penal practice. Both the 1610 and the 1756 summations of the city's by-laws predominantly prescribed capital

⁴³ M. Bellomo, *The common legal past of Europe, 1000-1800* (Washington: The Catholic University of America Press, 1995) 1-2; T. Kuehn, 'Gender and law in Milan', 408.

⁴⁴ F. Berlan, *Statuti Italiani. Saggio bibliografico* (Venice: Tipografia del commercio, 1858) xxvi, 12-13.

⁴⁵ P. Prodi, *The papal prince. One body and two souls. The papal monarchy in early modern Europe* (Cambridge University Press, 1982) 74.

⁴⁶ Angelozzi and Casanova, *Donne criminali*, 60; Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 156.

⁴⁷ Angelozzi and Casanova mention 8 ways in which Benedetto XIV's reforms sought to end the abuses of the criminal justice system: 1) the regulation of payments of the court's officials, 2) defining who can act as a legal expert, 3) obligation to first emit three citations in the presence of a bailiff before emitting a mandate for capture, 4) increasing the transparency of the process, 5) making witnesses sign their testimonies, 6) improving the rights of the criminals (for example no longer using dogs to capture fugitives), 7) no longer allowing undercover testimonies of prison infiltrators and 8) no longer pronouncing exile while the defendant was *in absentia*. See Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 164-182.

punishments. Among others, a death sentence could be prescribed for various forms of theft, armed robbery, homicide, assault of officials, counterfeiting, rebellion and banditry. Punitive incarceration was rarely prescribed, as it was not only expensive but also considered to be cruel. More commonly prescribed by the by-laws were convictions to the papal galleys in the Mediterranean and corporal punishment and fines for simple infractions.

While the criminal by-laws thus prescribed capital punishment for a multitude of offences throughout the early modern period, it has been argued that the actual enforcement of the death sentence declined significantly.⁴⁸ In Bologna 917 men and women were executed between 1540 and 1600. This number dropped to 556 from 1600 to 1700, and, averaging less than 2 per year in the 1690s, continued to go down.⁴⁹ It has therefore been argued that by the end of the seventeenth century, the death penalty was not a generic, common sentence, but was instead issued only to those who represented a threat to the state and the court's hold over that state. Similarly, although *esilio* (banishment) was not mentioned as a punishment for any crime in either of the two criminal by-laws, it was one of the most common sentences for many serious crimes throughout the seventeenth and eighteenth centuries. Indeed, in Italy as elsewhere in early modern Europe, banishment was commonly used as an instrument to moderate strict laws and often replaced capital punishments or a sentence to the galleys.⁵⁰ The convicted suffered exile from the entire legal territory of Bologna for lengthy, often indeterminate periods of time, unless he or she was able to make peace with the victim or the victim's family. The *bandi* therefore once more reveal that the regulations were by no means followed to the letter.

The example of banishment illustrates how sentences did not constitute the final stage of the criminal procedure. Indeed, peace-making and pardon constituted essential and regular parts of the early modern criminal justice system. As in the rest of Europe, convicted Bolognese men and women could request grace from the state authorities (in the case of the Papal States the Papal Prince) via criminal petitions, i.e. supplications (*suppliche*).⁵¹ These supplications were written by notaries working within the judicial structures who received a set fee for their services from the culprit. Each successful supplication was furthermore taxed

⁴⁸ N. Terpstra, 'Theory into practice: Executions, comforting, and comforters in Renaissance Italy', in N. Terpstra (ed.), *The art of executing well. Rituals of execution in Renaissance Italy* (Kirkville: Truman State University Press, 2008) 123.

⁴⁹ Rose, *Homicide in North Italy*, 57, 82-83.

⁵⁰ Nubola, 'Giustizia, perdono, oblio', 14; Rose, *Homicide in North Italy*, 132.

⁵¹ Niccoli, 'Rinuncia, pace, perdono', 221; Nubola, 'Giustizia, perdono, oblio', 35; C.S. Rose, '<<To be remedied of any vendetta>>: Petitions and the avoidance of violence in early modern Parma', *Crime, history & societies* 16:2 (2012) 5-6.

a proportion of the potential judicial fine for the pardoned crime.⁵² When granted, a pardon often stipulated a period of separation between the parties, which meant that killers could for example not return to the city or village where the homicide was committed for three years.⁵³ Other than that, the offender was free to move about the *legato* and was, essentially, re-integrated into the societal fabric. Whether a pardon would be granted hinged upon certain conditions; peace having been made with the victim or his/her family was one of the most important of these conditions.⁵⁴

According to a growing body of scholarly work, composition and peace-making had a central function in early modern criminal justice all over Europe.⁵⁵ This brokering of reconciliation was a remnant of the older forms of community justice and a continuity of medieval practices. The persistence of peace-making practices is particularly relevant for the early modern Italian case because of its role in preserving older social systems centred on violent confrontations.⁵⁶ Italian governments considered peace-making the most efficient and rational instrument to ensure social peace and order. Rather than making penal repression the focal point of their endeavours, public authorities increasingly inserted themselves into the private disputes of their citizens from the sixteenth and seventeenth centuries onwards, eventually in the roles of formal arbiters.⁵⁷ This meant that peace-making practices were increasingly institutionalised in early modern Italy: to make peace was now a jurisdictional action administered by the public authorities.⁵⁸

A prime example of this institutionalisation in Bologna is to be found in a range of non-continuous government bodies established between the 1540s and 1694 to facilitate peace-making between high-ranking nobles.⁵⁹ By the 1650s, this government council was called the *Assunteria de Liti e Paci* and it has been argued to have played an important part in

⁵² Rose, 'To be remedied of any vendetta', 17; Rose, Homicide in North Italy', 11-12.

⁵³ Rose, Homicide in North Italy, 87.

⁵⁴ Rose, 'To be remedied of any vendetta', 17.

⁵⁵ S. Cummins, 'Forgiving crimes in early modern Naples', in: S. Cummins and L. Kounine (eds.), *Cultures of conflict resolution in early modern Europe* (Surrey: Ashgate, 2016) 255; Cummins and Kounine, 'Confronting conflict in early modern Europe', 9; O. Niccoli, *Perdonare. Idee, pratiche, rituali in Italia tra cinque e seicento* (Rome: Editori Laterza, 2007) 38-39.

⁵⁶ Cavarzere, 'At the crossroads of feud and law', 55, 69; D. Boschi, 'Knife fighting in Rome', 150-153, especially 152; Broggio and Carroll, 'Violence and peacemaking in early modern Europe', 5; Rose, Homicide in North Italy, 20.

⁵⁷ Cavarzere demonstrates how the evolution of this codification in the sixteenth-century Pistoiese statutes, and suggests that similar developments took place in other parts of Italy between the sixteenth and seventeenth centuries, see Cavarzere, 'At the crossroads', 64-65, 69.

⁵⁸ Ibidem, 65; M. Bellabarba, 'Pace pubblica e pace privata. Linguaggi e istituzioni processuali nell'Italia moderna', in: M. Bellabarba, A. Zorzi and G. Schwerhoff (eds.), *Criminalità e giustizia in Germania e in Italia. Pratiche giudiziarie e linguaggi giuridici tra tardo medioevo e prima età moderna* (Bologna: Il Mulino, 2001) 189-213.

⁵⁹ Niccoli, O., *Perdonare. Idee, pratiche, rituali in Italia tra cinque e seicento* (Rome: Editori Laterza, 2007) 115.

the government's efforts to curtail the nobility's violence during those volatile years of heightened violence.⁶⁰ But the institutionalization of peace-making was also visible outside of these specific councils. Vicars, local officials (*massari, ministrali*) and even senators are known to have acted as mediators between the victim of violence and/or his kin and the imputed criminal in the pacification of conflicts.⁶¹ According to Rose and others, the court records suggest that the *Torrone's* magistrates applied a great deal of pressure on the victims and their kin to accept their enemies' peace-making attempts.⁶²

The Bolognese criminal court records clearly demonstrate that arbitration was favoured over formal judicial intervention in the case of petty offences. Drawing on Bologna's civic statutes, the statutes of the *Torrone* affirmed the plaintiff's right to withdraw a complaint.⁶³ According to Ottavia Niccoli, who studied these forms of peace-making in early modern Bologna, the *rinuncia* usually followed a financial composition between the plaintiff and defendant, even though this often remains implicit in the sources.⁶⁴ The norms dictated that in the case of *levioribus criminibus* (literally lighter crimes, used here for crimes against the person without the spilling of blood) the withdrawal of a complaint brought about the immediate suspension of any legal action. However, the Bolognese criminal court records demonstrate that the withdrawal could halt prosecutions for a broader range of crimes than the norms dictated – from verbal insults to aggressions with serious physical consequences and, more rarely, theft. The next chapter will explore this mechanism in more detail for the denunciations.

Another judicial peace-making instrument that was particularly used for the graver types of offences was the peace accord. This was an official, notarised document that brought settlement to a dispute between two quarrelling parties. With its historical roots in the medieval accusatorial procedure, it aimed to reintegrate the offender into society and was quite common in most parts of early modern Europe.⁶⁵ Theoretically, it carried greater weight than the simple juridical withdrawal of the complaint because it functioned as a social accord that was supposed to bring an end to a conflict between individuals and

⁶⁰ Rose, *Homicide in North Italy*, 87; G. Angelozzi and C. Casanova, *La nobiltà disciplinata. Violenza nobiliare, procedure di giustizia e scienza cavalleresca a Bologna nel XVII secolo* (Bologna: Patròn Editore, 2003) 57.

⁶¹ Niccoli, 'Rinuncia, pace, perdono', 228-232; Rose, *Homicide in North Italy*, 64-65.

⁶² Rose, *Homicide in North Italy*, 85-86; Cavarzere, 'At the crossroads', 65-67.

⁶³ R. Mariani, *Criminalità e controllo sociale nella Crevalcore del seicento* (Master thesis, Università degli studi di Bologna, 1991) 74.

⁶⁴ Niccoli, 'Rinuncia, pace, perdono', 226.

⁶⁵ K.L. Jansen, "'Pro bono pacis': Crime, conflict, and dispute resolution. The evidence of notarial peace contracts in late medieval Florence", *Speculum* 88:2 (2013) 446.

families once and for all.⁶⁶ It is generally assumed that the peace accords, like the *rinuncia*, generally involved a financial settlement between the plaintiff and defendant, even though these details were rarely recorded.⁶⁷ Before the criminal court, presenting a peace accord could commute a sentence to a lesser one or could halt the prosecution altogether through a pardon by the legate.⁶⁸

The peace accords and other types of reconciliation were common and are generally assumed to have been used by men and women of all social stripes.⁶⁹ The importance and frequency of its use in Italy is quantified by various studies. Rose, for example, observed that nearly a third of seventeenth-century homicide trials in Bologna were settled with a notarised peace accord granted by the victim's kin.⁷⁰ It is generally assumed that the use of these pacification instruments in the criminal justice system was increasingly restricted during the early modern period, although it has also been noted that even in the nineteenth-century Papal States it was still possible to withdraw a complaint from the judicial process.⁷¹ This highlights the formal incorporation and continued importance of peace-making in early modern Italy's criminal justice system.

Women's involvement in recorded crime

While the criminal procedures and by-laws in themselves may appear relatively gender neutral at first glance, there are important reasons to assume that there were significant differences in men's and women's experiences of the law. In a quantitative sense, European women's small proportional contribution to crime is relatively well documented. Though by no means static, data on early modern Europe shows that in England, Scotland, Holland, Germany and France women generally constituted a relative minority among offenders coming before the criminal court.⁷² However, recent studies have rendered it plausible that

⁶⁶ Niccoli, *Perdonare*, 113.

⁶⁷ Niccoli, 'Rinuncia, pace, perdono', 226.

⁶⁸ Nubola, 'Giustizia, perdono, oblio', 33.

⁶⁹ Jansen, 'Pro bono pacis', 427-456; T. Kuehn, 'Law and arbitration in Renaissance Florence', in T. Kuehn (ed.), *Law, family and women. Toward a legal anthropology of Renaissance Italy* (University of Chicago Press, 1991) 36; A. Zorzi, 'Legitimation and legal sanction of vendetta in Italian cities from the twelfth to the fourteenth centuries', in S.K. Cohn jr. and F. Ricciardelli (eds.), *The culture of violence in Renaissance Italy* (Florence: Le Lettere, 2012) 34.

⁷⁰ Rose, *Homicide in North Italy*, 86.

⁷¹ D. Edigati, 'La pace nel processo criminale. Il caso toscano in età moderna', in: P. Broglio and M.P. Paoli (eds.), *Stringere la pace. Teorie e pratiche della conciliazione nell'Europa moderna (secoli XV-XVIII)* (Rome: Viella, 2011) 408.

⁷² Farge, *Délinquance et criminalité. Le vol d'aliments à Paris au XVIIIe siècle* (Paris: Plon, 1974); Feeley and Little, 'The vanishing female'; Van der Heijden, 'Criminaliteit en sekse'; King, *Crime and Law*; Kilday, *Women and violent crime*; P. Spierenburg, *A history of murder. Personal violence in Europe from the middle ages to the present* (Cambridge: Polity, 2008) 117.

this was not necessarily because women were inherently less criminal. Rather than appearing before a high criminal court, it has been contended that women's crimes were likely more commonly solved through other informal or extrajudicial spheres of social control, such as the family or the neighbourhood.⁷³ Recent studies on towns in England and Holland have also demonstrated that the crimes of women were furthermore more commonly dealt with at the lower end and earlier stages of the criminal justice system.⁷⁴

Compared to other parts of early modern Europe, women's involvement in crime and criminal justice has received scant attention in Italian scholarship. Most scholarly attention has been devoted to the late medieval and Renaissance period. Many of these works paint a rather bleak picture for women. Samuel Cohn's notable and oft-cited study on fourteenth- and fifteenth-century Florence suggests a diminishing participation of women in crime during the Renaissance. Before Florence's *Otto di Guardia*, women comprised 22 per cent of the accused a decade before the Black Death (1347-1348) and 17 per cent two decades later (1374-1375).⁷⁵ Although the quantitative differences appear modest, Cohn argues that they represent a real decline, reflecting the newly introduced constraints on women's ability to perform public roles and access the court, among others by requiring women to be represented in court by a guardian (*mundualdus*). Although this legal requirement was by no means universally applied throughout the Italian peninsula, the notion that Italian women were increasingly worse off has readily captured the imagination. It does, however, require further scrutiny. Elizabeth and Thomas Cohen's work on the Roman Governor's Court in the sixteenth-century is for example suggestive of a wide involvement of both men and women in criminal offences, though quantitative assessment of its incidence has remained outside the scope of their work.⁷⁶

The renowned legal historian Mario Sbriccoli has attributed the (at that point still largely presumed) low level of female involvement in recorded crime in Italy to the workings of the legal system.⁷⁷ His premise is that, until the twentieth century, both the law and consequently the criminal justice system were viewed as essentially masculine. This meant that women were kept away from the law and the law was kept away from women, whether as judges, lawyers, plaintiffs or defendants. Not only was the criminal justice system based on male behaviours, it also actively categorised many of women's deviant behaviours

⁷³ Dinges, 'The uses of justice', 167-168.

⁷⁴ Van der Heijden, 'Women, violence and urban justice', 71-100; Hurl-Eamon, *Gender and petty violence*.

⁷⁵ Cohn, 'Women in the streets, women in the courts', 24, 29.

⁷⁶ Cohen and Cohen, *Words and deeds*, 14-16.

⁷⁷ Sbriccoli, 'Deterior est condicio foeminarum', 81.

(described by Sbriccoli as obscene behaviours, fornication, concubinage, as well as petty crimes) as matters of sin, disorder, irregularity or censorable anomalies rather than subject to criminal justice.⁷⁸ According to Sbriccoli, women's criminality in Italy was thus largely 'absorbed' into the mesh of extrajudicial control systems, ranging from the domestic sphere to the neighbourhood and the church.

While it may well be true that women's crimes were more likely to be handled by less formal methods of conflict resolution in the early modern period, by no means all of women's transgressions were dealt with outside the judicial system.⁷⁹ Table 1 brings together data from various Italian studies regarding the proportion of women among formally investigated criminal offenders. It also includes figures for urban Bologna, which I have collected from the *Torrone's* investigation dossiers (*processi*) for the sample years of 1655, 1675, 1705, 1725 and 1755. Among the 911 collected *processi*, there were 1,357 identified defendants; 1,287 men and 70 women.⁸⁰ This meant that in Bologna women comprised only about five per cent of those subject to a formal criminal investigation.⁸¹ The other available studies on Italian towns reveal equally low figures, suggesting that women represented a clear minority among indicted criminals.

When speaking about developments over the longer term, it is commonly assumed that the early modern period marked a peak for women's involvement in crime. Records from cities in France, England, Scotland, Germany and the Netherlands have demonstrated that female involvement in crime during the early modern period was most likely significantly higher than in the modern period.⁸² While various studies have indicated that in Western Europe until 1900 up to 50 per cent of the property crimes were committed by women, they were only responsible for between 16 per cent of these crimes in the twentieth century.⁸³ The comparatively high percentages of female crime in the seventeenth and eighteenth centuries have led to an academic debate about trends in male and female recorded crime. Based on data on cities in England and the Netherlands,

⁷⁸ Ibidem, 83-84.

⁷⁹ Dinges, 'The uses of justice', 159-175; R. Shoemaker, *Prosecution and punishment. Petty crime and the law in London and rural Middlesex, c.1660-1725* (Cambridge University Press, 1991) 292; Schwerhoff, *Köln im Kreuzverhör*.

⁸⁰ The total number of 'offenders' amounts to 1,419 if we include the 62 offenders whose identity and sex are unknown.

⁸¹ The share of female defendants among urban *processi* was 2% in 1655, 5% in 1675, 2% in 1705 and 8% in 1725 and 1755.

⁸² G. Geltner, 'No woman's land? On female crime and incarceration, past, present and future', *Justice policy journal* 7:2 (2010) 6; Feeley and Little, 'The vanishing female', 719-757; Jütte, 'Geschlechtsspezifische Kriminalität', 86-116; Van der Heijden, 'Criminaliteit en sexe', 1-36.

⁸³ *European sourcebook of crime and criminal justice statistics 2014* (Helsinki: Hakapaino Oy, 2014) 89.

criminologist Malcolm Feeley argued that female involvement in crime was much higher in Europe until the middle of the eighteenth century, allegedly dropping drastically afterwards as a result of increasing patriarchal structures pushing women out of the public sphere.⁸⁴ Various scholars have raised substantial doubts about the idea of the ‘vanishing female’, not only about why the decline occurred but also when and where. Nevertheless, there is a broad consensus regarding women’s relatively high shares among offenders during the early modern period.

TABLE 1. SHARES OF FEMALE DEFENDANTS BEFORE CRIMINAL COURTS IN VARIOUS ITALIAN CITIES, AVERAGES PER CENTURY

<i>Urban population in thousands, c.1700</i>	14 th c	15 th c	16 th c	17 th c	18 th c	19 th c
Florence (72)	20.9	14.1	-	-	-	-
Lucca (24)	14	-	-	-	-	-
Viterbo (12)	-	7.9	-	-	-	-
Rome (140)	-	-	11.5	-	-	-
Bologna (63)	-	3.3	-	4.0	5.7	11.5
Siena (16)	-	-	-	-	8.8	-
Prato (6)	-	-	-	-	4	-

Sources: **Florence**: S.K. Cohn, ‘Women in the streets, women in the courts, in early Renaissance Florence’, in *Ibidem* (ed.), *Women in the streets. Essays on sex and power in Renaissance Italy* (Baltimore: John Hopkins University Press, 1998) 16-38, **Lucca**: G. Geltner, ‘A cell of their own: The incarceration of women in late medieval Italy’, *Signs* 38:1 (2013) 31; **Viterbo**: V. Rizzo, ‘Giustizia e società a Viterbo nel XV secolo (da una ricerca sui registri dei malefici)’, *Biblioteca e società* 3-4 (1999) 49, **Bologna**: 15th century data: S.R. Blanshei and S. Cucini, ‘Criminal justice and conflict resolution’ in S.R. Blanshei (ed.), *A companion to medieval and Renaissance Bologna* (Leiden: Brill, 2018) 72; 17th and 18th century data: my own calculations based on the sampled *processi* for the years 1655, 1675, 1705, 1725 and 1755; the 19th century data: M. Pluskota, ‘Petty criminality, gender bias, and judicial practice in 19th-century Europe’, *Journal of Social History* 51:4 (2018) 723, **Rome**: C. Vasta, Criminal women. Women’s violence in sixteenth- and seventeenth-century Rome (Unpublished conference paper 61th Annual Meeting of the RSA, Berlin, 26-28 March 2015) 6, **Siena**: L.C. Sardi, ‘Analisi statistica sulla criminalità nel 1700 (reati e pene) con riguardo allo Stato senese’, in L. Berlinguer and F. Colao (eds.), *Criminalità e società in età moderna* (Milan: Giuffrè, 1991) 396, 439, **Prato**: D. Zuliani, ‘Reati e pene nel vicariato di Prato prima e dopo la <<Leopoldina>> (1781-1790)’, in L. Berlinguer and F. Colao (eds.), *Criminalità e società in età moderna* (Milan: Giuffrè, 1991) 312. **Urban population data**: P. Malanima, ‘Italian urban population 1300-1861 (The database)’.

Interestingly, however, based on current research there is so far little evidence that this general trend applies to early modern Italy. Although the aggregated data is too sparse and disparate to draw definite conclusions, there are no known examples of crime shares (based on formal indictments) remotely as high as those found in most other early modern European towns. For various towns in early modern Holland, for example, it has been

⁸⁴ Feeley and Little, ‘The vanishing female’, 750.

calculated that women made up around 30 per cent of the criminal offenders.⁸⁵ Similarly, in seventeenth- and eighteenth-century Frankfurt and Surrey, women accounted for 22 and 21 per cent of all suspects investigated.⁸⁶ Even though longer-term quantitative studies for these European towns have demonstrated that female crime shares were in constant flux, the available data suggests that they were consistently higher than those found for the Italian Peninsula, including Bologna. Although we must be cautious about making generalisations based on this limited data, it does seem to suggest that the early modern period did not constitute a peak for women's criminality everywhere in Europe. The possibly different long-term development of women's involvement in crime in early modern Italian cities provokes broader questions regarding the explanations for its historical variation over time and space. As has been argued in the previous chapter, many of the structural characteristics of women's lives in early modern Bologna such as the level of labour participation, the shares of female-heading households, and the prevalence of nuclear families were remarkably similar to those found in Northern European cities. Alongside of women's social and economic position, we should therefore also take into account the effects of other societal determinants, such as legal culture and civic institution, to understand Italian women's recorded involvement in crime.

The character of indicted crime in Bologna

Which crimes were investigated and prosecuted by the criminal courts differed significantly across time and space. Definitions of what is regarded a crime are therefore imperative. Table 2 shows the various types of offences that can be found in the early modern Bolognese criminal court records. The descriptions are largely based on the contemporary descriptions found in these sources themselves. The front cover of Bologna's *processi* – collected as bundles of dedicated dossiers – nearly always included a Latin or Italian indication of the crime the defendant had been accused of committing. These include *omicidio* for homicide, *vulnere* for wounding, *furto* for theft in related activities, *rapina* for armed robbery and *stupro* for rape or sex out of wedlock. The classification of these offences into the categories of violence, property, public order and sexual misconduct is a modern one, which I based on my reading of the criminal by-laws and classifications by other scholars. With these

⁸⁵ Between 1680 and 1811 Amsterdam, on average 35.2 percent of defendants consisted of women. Slightly lower, but still comparatively high counts have been found for towns such as Haarlem and Dordrecht. For a summary of these works on Holland, see Van der Heijden, *Women and crime*, 4-9. For an overview of the shares in Germany and some English localities, see Kamp, 'Female crime and household control', 640; Jütte, 'Geschlechtsspezifische Kriminalität', 93.

⁸⁶ Kamp, 'Female crime and household control', 536; Beattie, 'The criminality of women', 81.

categorisations in mind, we will examine the similarities and differences between prosecuted crimes of male and female offenders as well as between Bologna and other cities in early modern Europe.

Violence	Property	Public order	Sexual misconduct
Homicide	Theft & fencing	Bearing/firing arms	Rape
Infanticide	Burglary & breaking and entering	Suspicious behaviour	Sexual battery
Fighting resulting in serious injury	Pickpocketing	Begging & vagabonding	'Deviation' & adultery
Fighting without serious injury	Robbery	Disorderly behaviour	Sodomy
Threat	Arson & damage to property or animals	Resisting/insulting the authorities	
Insult, defamation & libel	Violation of seizure of goods	Perversion of justice	
		Violation of banishment	
		Fraud & forgery	

	Male defendants		Female defendants		Total known*		Unknown offenders	
	#	%	#	%	#	%	#	%
Violence	565	44	23	33	588	43	11	18
Property	323	25	27	39	350	26	50	81
Public order	350	27	17	24	367	27	1	2
Sex	42	3	3	4	45	3	0	0
Misc	7	1	0	0	7	1	0	0
	1287	100	70	100	1357	100	62	100

Source: Sample 1 (see appendix).
 * Calculated from the total of defendants whose sex is known, counted by defendant.

When we examine the composition of the seventeenth- and eighteenth-century Bolognese *processi*, it is the proportional importance of violence that catches the eye. Indeed, as is shown in table 3, the dockets of Bologna's criminal court brimmed with violent acts ranging from insults and blows to stabbings, shootings and murder. Making up 42 per cent of the cases investigated by the criminal court, these violent and aggressive offences were the most common reason for an encounter with the law, followed by offences against property (28 per cent) and those against public order (26 per cent), whereas sexual offences were much more scarce (3 per cent). With the preponderance of violent offences among its *processi*,

Bologna's 'crime pattern' resembled that of other towns in much of pre-modern Italy. Both for fourteenth- and fifteenth-century Florence and sixteenth-century Rome, scholars have found violent offences to be the most important crime before the criminal court.⁸⁷ The importance of violence before pre-modern Italian criminal courts stands out compared to the indicted crimes in Northern European cities. Criminal courts in Holland, England and Germany were as a rule far more prone to prosecuting theft and other property offences.⁸⁸ Together with data from Spain, Portugal and South-West France, the Bolognese case study thus provides further evidence for the existence of a distinct Southern European prosecution pattern in which violent offences figured much more prominently than in the northern regions of Europe.⁸⁹

The investigation dossiers suggest that there were slight differences in the prosecution patterns for male and female offenders. Table 3 shows that while violence was by far the most important offence category for men, property crimes made up the largest proportion of crimes for which women were investigated by the *Torrone*. The idea that women were naturally less violent than men has a long history. From Beccaria and Lombroso in the eighteenth and nineteenth centuries to as late as the 1960s, criminal anthropologists attributed these kinds of distinctions between the crimes by men and women to both biological and physical predispositions. These theories assume that women's lesser physical strength equates to their limited violent transgressions.⁹⁰ Although this notion has not gone without criticism, it is still prevalent in the thinking about the relationship between women and violence. More recently scholars have, however, emphasised not biology, but the profound influence of gendered norms and prosecution policies.⁹¹ In Bologna, although the criminal by-laws include instructions on how the court should deal with more minor infractions regardless of sex, it is clear that the judges had a large *arbitrium* and did not deem all offences by all offenders equally worthy of prosecution.

Which offences merited prosecution in the eyes of the authorities was both contingent on the crime itself as well as on the 'personal qualities' of the plaintiffs and defendants. With

⁸⁷ Cohn, 'Women in the streets, women in the courts', 26; Blastenbrei, *Kriminalität in Rom*, 284.

⁸⁸ Noordam, 'Strafrechtspleging en criminaliteit', 228; *Old Bailey Proceedings Online* (<https://www.oldbaileyonline.org/>, version 7.2, March 2015), Tabulating offence category, between 1674 and 1800. Counting by defendant; Schwerhoff, *Historische Kriminalitätsforschung*, 116.

⁸⁹ T.A. Mantecón, 'The patterns of violence in early modern Spain', *The journal of the historical society* 7:2 (2007) 254; D. Abreu-Ferreira, *Women, crime and forgiveness in early modern Portugal* (Surrey-Burlington: Ashgate, 2015) 17; J.R. Ruff, *Crime, justice and public order in old regime France* (London: Croom Helm, 1984), see figure 1.01 in the introduction, n.p.

⁹⁰ For an overview, see Crouzet-Pavan, 'Crimine e giustizia', 56-57; Angelozzi and Casanova, *Donne criminali*, 12.

⁹¹ For this discussion, see Van der Heijden, *Women and crime*, 9-10.

regard to the type of crime, the criminal court records indicate that the authorities' focus lay on the more serious violent offences such as homicide and violence that resulted in life-endangering wounds. Among the denunciations, however, petty acts of aggression were prevalent. Factors such as class, reputation and sex also determined how cases were perceived.⁹² There are many examples of women's crimes not being regarded as a threat and therefore deemed not worth prosecuting. Julius Ruff and others have theorised that early modern societies in general had little interest in female violence and did not feel threatened by women's transgressions, which could have translated into fewer indictments.⁹³ Similarly, in his examination of assaults in eighteenth-century London, Daniel Gray has shown that assaults by women were often not taken seriously by prosecutors and were instead dismissed as frivolous.⁹⁴ In early modern Italy too, similar mechanisms were at play. Giancarlo Angelozzi and Cesarina Casanova have argued that women's violence in early modern Bologna was disproportionately dismissed by the *Torrone's* judges.⁹⁵ This manifested itself in the clause of *non proceditur; stante qualitate facti et personae*, which they argue can be viewed as an act of clemency by the judge as well as an assessment of the irrelevancy of the case, in which their sex was a contributing factor.

That the patterns emerging from the *processi* do not allow for any straightforward generalisations about women's less violent nature is also evident from other types of sources. In Bologna the denunciations are particularly relevant in this context. Among these far more plentiful formal complaints no less than 82 per cent of the accused women and two-thirds of the accused men were denounced for physical and verbal aggression.⁹⁶ At the level of the *processi* violence made up a lower 44 per cent of men's crimes and 33 per cent of women's. Violence thus played a less important role in the investigations for both men and women, but the discrepancy is particularly striking for the female defendants. In the *processi*, women made up only four per cent of violent transgressors, whilst their share was roughly five times that among the denunciations. For the examination of women's involvement in everyday offending, it is therefore imperative to scrutinise not only those offences that the authorities deemed worth prosecuting. Similar to what Trevor Dean suggested for late medieval

⁹² Angelozzi and Casanova, *La giustizia in una città di antico regime*, 643.

⁹³ J.R. Ruff, *Violence in early modern Europe, 1500-1800* (Cambridge University Press, 2001) 117-159; K. Callahan, 'Women who kill: An analysis of cases in late eighteenth- and early nineteenth-century London', *Journal of social history* 46-4 (2013) 1015.

⁹⁴ D.D. Gray, 'The regulation of violence in the metropolis; the prosecution of assault in the summary courts, c.1780-1820', *The London journal* 32:1 (2007) 79.

⁹⁵ Angelozzi and Casanova, *Donne criminali*, 55, 259.

⁹⁶ For a closer examination and further discussion of the differences between the outcomes of the *processi* and the denunciations, also see chapter 4 in this book, particularly table 6.

Bologna, in many ways the real difference between the crimes of men and women was quantitative, rather than qualitative.⁹⁷

For property offences, another important category of crime, there was a similar discrepancy between the proportional importance in the *processi* and the denunciations. Among the accused women, it was not violence but these property offences that made up the largest proportion of the crimes investigated (39 per cent). Among the denunciations on the other hand, only 11 per cent of the female offenders were accused of these kinds of crimes. This discrepancy can also be observed for property crimes among accused men – making up 18 per cent in the denunciations and 26 per cent among the *processi* – although the difference is definitely more marked for female offenders. Contrary to the petty acts of violence so prevalent among the denunciations, property offences – even if they concerned small-value thefts – were as a rule prosecuted with zeal by the early modern authorities. Women’s share among offenders was also the highest in this category of crime. With women responsible for 8 per cent of all thefts investigated it was twice the share of women among violent offenders. For property crimes, the main typological difference between men and women lay in women’s near absence among pickpockets and robbers. On the other hand, thefts from homes and shops were by far the most common property crime for both sexes.

Roughly as important among the offences investigated were myriad acts against public order. About a quarter of men (27 per cent) and women (24 per cent) before the *Torrone* were accused of behaviours that disturbed the public peace, such as gambling, illegal dances and the throwing of stones, often in groups. The latter activity was predominantly carried out by young men. In early modern towns, rock-throwing battles (*sassaiole* or *sassate*) had a long tradition as a communal sport staged on festival days.⁹⁸ As the Italian towns became part of the seignory and the territorial state, the new governors of the cities outlawed these battles and pursued a programme of marginalisation in a bid for control over its urban populace. However, while the big communal encounters disappeared, the stone fighting persisted, particularly among groups of boys and young men. For seventeenth-century Rome Robert Davis observed that the police “were forever stopping” people with rocks on them; in their pockets, under their cloaks, up their sleeves, in their work aprons or even in the lining of their hats.⁹⁹ The Bolognese court records also contain many references to this stone

⁹⁷ Dean and Lowe, ‘Writing the history of crime’, 4; Dean, *Crime in medieval Europe*, 77-78; T. Dean, ‘Theft and gender in late medieval Bologna’, *Gender & History* 20:2 (2008) 405.

⁹⁸ R. Davis, ‘Say it with stones. The language of rock-throwing in early modern Italy’, *Ludica* 10 (2004) 116.

⁹⁹ *Ibidem*, 113.

throwing, for example because of the resulting injuries, but also because they were caught red-handed by the city's lawmen, the *sbirri*.

Another public order offence prevalent among the *Torrone's* investigation dossiers typically committed by men was that of bearing arms within the city walls. As in other early modern Italian cities such as Rome, the prevalence of arms was viewed as a cause of the endemic violence in Bologna's streets and villages. From the sixteenth century onwards, weapons therefore became the pillars of public order legislation.¹⁰⁰ This ambition was reflected in the 1610 *Bando Generale*, the summation of the criminal by-laws, which prohibited the carrying of a wide range of arms, such as swords, long-bladed weapons and firearms, in the city and countryside without a licence.¹⁰¹ To this end Bologna's gatekeepers and the city's lawmen, the *sbirri*, were given detailed instructions on how to manage the transgression of these bans and indeed they handed out fines and confiscated weapons on a daily basis from largely male offenders. The repeated issuing of weapon bans throughout the early modern period illustrates the authorities' enduring concern with this public order offence as well as its ineffectiveness. The high number of summonses given out on a daily basis by the criminal court's lawmen for unlicensed weapons demonstrated that these arms were constantly to be found among the male Bolognese populace.¹⁰²

A highly gendered public order offence was that of *vagare la notte*, i.e. wandering about at night. Concerns about public order underpinned an official curfew that restricted women's mobility after sunset's *Ave Maria* bell in many early modern Italian towns.¹⁰³ The roots of this criminalisation of women's mobility lay in the by-laws' sumptuary and spatial regulations of prostitutes. In the context of public order these by-laws sought to regulate where they lived, how they dressed, which places they could visit and finally, when they could or could not do all of these things on punishment of public lashings, ridicule or exile.¹⁰⁴ Vanessa McCarthy, who examined prostitution in sixteenth- and seventeenth-century Bologna, has argued that these regulations were poorly enforced.¹⁰⁵

Although errant prostitutes were indeed infrequently prosecuted by the *Torrone*, it is imperative to stress the implications of these restrictions for the public perception of

¹⁰⁰ Rose, *Homicide in North Italy*, 230; Blastenbrei, 'Violence, arms and criminal justice', 75; *Bando generale della legazione di Bologna e suo contado, fatto pubblicare li 12. ottobre 1756 dall' eminentiss., e reverendiss. sig. cardinale Fabrizio Serbelloni, legato a latere di detta città* (Bologna 1756) Chapter XLVI, No. 7, page 75.

¹⁰¹ *Bando generale Giustiniano 1610*, chapter XXIV, page 43-51.

¹⁰² Rose, *Homicide in North Italy*, 65, 231.

¹⁰³ Cohen, 'To pray, to work, to hear, to speak', 303.

¹⁰⁴ *Bando generale Giustiniano 1610*, 60.

¹⁰⁵ McCarthy, *Prostitution, community and civic regulation*, 125, 127.

women's presence in the urban space. According to the by-laws, respectable women could travel the streets after dark, but only when they were accompanied by their husbands or male kin.¹⁰⁶ When women ventured into the night streets alone or in the company of unrelated men, they were automatically viewed and treated with suspicion. During the night of 3 May 1652, for example, the *sbirri* arrested Anna Maria Campana, a single local woman.¹⁰⁷ She denied being in the wrong because she was merely on her way to a tavern nearby her home to drink some wine. The case against her was suspended three days later. It is important to note that the women who were brought before the court for roaming in the night were in effect not necessarily prostitutes, but aroused the lawmen's suspicion merely by walking in the street after sunset without an escort. By the seventeenth and eighteenth centuries, there was no such enforcement of restrictions on men's mobility.¹⁰⁸

Crimes of a sexual nature were relatively uncommon before Bologna's criminal court. Only 3 per cent of the defendants were accused of these kinds of crimes. In the early modern period, moral offences such as prostitution, adultery, fornication, concubinage and having illegitimate children were often considered punishable criminal offences. Historical research has pointed out that early modern European criminal courts often disproportionately sentenced women for these kinds of sexual crimes.¹⁰⁹ This was clearly not the case before the *Torrone*; Bologna's secular court of law. Here 45 men and only 3 women were accused of crimes of a sexual nature. That prostitution was not criminalised but taxed in early modern Italy may be part of the explanation for the low numbers of women among those accused of moral crimes.

Secondly, the *Torrone* did not have complete control over cases relating to marriage and sexuality. Across the Italian peninsula moral offences were dealt with by different courts and in different ways: criminal, civil, mixed, and ecclesiastical.¹¹⁰ Although it has been argued that the secular courts were increasingly empowered, both the secular and ecclesiastical courts asserted jurisdiction over sex crimes throughout the early modern period.¹¹¹ In Bologna, it was the archbishop's court, the *Tribunale Arcivescovile*, which

¹⁰⁶ Cohen, 'To pray, to work, to hear, to speak', 303.

¹⁰⁷ ASBo, *Torrone*, 6609, fol. 166.

¹⁰⁸ Gregory Roberts did still find an active policing and curfew charges against men in thirteenth century Bologna, see 'Vendetta, violence, and police power in thirteenth-century Bologna', in: S.R. Blanshei (ed.), *Violence and justice in Bologna: 1250-1700* (Lanham: Lexington Books, 2018) 6-7, 10, 21.

¹⁰⁹ Schwerhoff, 'Geslechtsspezifische Kriminalität', 91; Van der Heijden, 'Criminaliteit en sexe', 16.

¹¹⁰ Black, *Early modern Italy*, 197.

¹¹¹ For a summary of the discussion about the competition over jurisdiction between secular and ecclesiastical courts in premodern Italy, see S.E.C. Russell, *Courtship, violence and the formation of marriage in the early modern Italian novella tradition* (Unpublished PhD. thesis, University of California, Berkeley, 2010) 2.

exercised criminal jurisdiction not only over the clergy, but also over the laity in the case of matrimonial disputes or crimes against the sacraments such as pre- and extramarital sexuality.¹¹² This line of thought is captured by the 1756 *Bando Generale*, which, reflecting the changes of the prior decades, treats only a limited number of ‘crimes of the flesh’ such as abduction, bestiality, violent rape and sexual intercourse with minors. Most other sex-related crimes, like adultery, incest, sodomy, concubinage, pimping and prostitution are described as being subject to civil or canon rather than secular criminal law.¹¹³

Despite this reticence, moral crimes were occasionally brought before the *Torrone*. Recent literature emphasises the roles that the victims and their kin played in this. Because nearly all sexual offences could be brought before both the criminal and the ecclesiastical court, the decision for one court or the other ultimately depended on the plaintiffs’ choice and objectives.¹¹⁴ This is perhaps most evident in rape cases (*stupro*). This was the most common type of sexual offence in the seventeenth- and eighteenth-century *processi* from urban Bologna and concerned cases of forced intercourse as well as consensual premarital sex followed by a broken marriage promise. If the individuals concerned were unwed, rape charges could be resolved by marriage to the perpetrator. To achieve this objective, the ecclesiastical court was the appropriate forum. Through the criminal court, on the other hand, the victim and her kin could negotiate a substitute dowry, as the official penalties for the violation of women ranged from public torture with the *strappado* to being sentenced to the galleys for ten years and even the death sentence.¹¹⁵ Overall, the defendants accused of crimes of the flesh were rarely sentenced because of the importance of these infrajudicial negotiations.

Although this section has shed light on some gender-specific characteristics, the crimes of men and women in early modern Bologna were in many ways more similar than distinct. While previous literature tended to stress the different nature of ‘male’ and ‘female crimes’, the Bolognese court records do not allow for such clear-cut differentiation. Albeit a minority in statistical terms, women engaged in a wide range of deviant behaviours, from simple thefts to acts of aggression and violence, much as men did. Other scholars have argued in a similar vein. In his examination of theft in late medieval Bologna, Trevor Dean

¹¹² Lombardi, ‘Marriage in Italy’, 120, footnote 46; Angelozzi and Casanova, *Donne criminali*, 60; Ferrante, ‘La sessualità come risorsa’, 995.

¹¹³ *Bando generale Serbelloni 1756*, 92. Sodomy was still described as a criminal matter subject to hanging and being burned in the 1610 *bando*, see *Bando generale Giustiniano 1610*, 39-40.

¹¹⁴ Casanova, *Crimini nascosti*, 123.

¹¹⁵ *Bando generale Serbelloni 1756*, 91.

follows Garthine Walker in pointing out that the tendency of historians to emphasise the differences between men and women negates the many similarities that existed among them.¹¹⁶ He proposes instead that gender should be regarded as a “multi-dimensional spectrum rather than a binary divide, in which masculine and feminine forms of behaviour are present [...] but alongside a broad band of shared, similar behaviours.”¹¹⁷ It is thus important not to overstate the distinctness of the deviance demonstrated by men and women, but to also examine it from the perspective of its common ground.

Gender dynamics and the sentencing of crimes

While traditional assumptions regarding the ‘male’ or ‘female’ types of crimes have been questioned and challenged, historians and criminologists have shown that a contemporary gendering of crime influenced how and to what extent men and women were prosecuted and punished for their offences. A significant aspect of the discussion about historical patterns of prosecution and punishment has revolved around the question of whether women benefitted from a milder or harsher treatment before the court. The prevalent ‘chivalry theory’ assumes that both early modern and modern legal professionals were inclined to treat women with leniency on the assumption of their weakness and need for protection.¹¹⁸ In Roman law, this weakness was codified through the notion of the *fragilitas* or *infirmitas sexus*. In the interpretation of Renaissance jurists, this status likened a woman’s legal capacity to that of a child or handicapped person.¹¹⁹ In the role of plaintiffs, women were in theory excluded from making criminal accusations, although there were many exceptions in which they were permitted to do so, such as insults or damage done to them or in the case of a relative’s death.¹²⁰ As witnesses, women’s testimonies were theoretically regarded as less reliable than men’s.¹²¹ The prevailing ‘chivalry theory’ furthermore assumes that early modern legal professionals were generally inclined to protect these ‘weak women’

¹¹⁶ Dean, ‘Theft and gender’, 400.

¹¹⁷ *Ibidem*, 412.

¹¹⁸ Angelozzi and Casanova, *Donne criminali*, 18-19; M. Graziosi, Women and criminal law. The notion of diminished responsibility in Prospero Farinaccio (1544-1618) and other Renaissance jurists’ in: L. Panizza (ed.), *Women in Italian Renaissance culture and society* (Oxford: University of Oxford European Humanities Research Centre, 2000) 173.

¹¹⁹ Kuehn, ‘Daughters, mothers, wives and widows’, 99 and Graziosi, ‘Fragilitas sexus’, 20.

¹²⁰ M. Graziosi, ‘“Fragilitas sexus”. Alle origine della costruzione giuridica dell’inferiorità delle donne’, in: N.M. Filippini, T. Plebani and A. Scattigno (eds), *Corpi e storia. Donne e uomini dal mondo antico all’età contemporanea* (Rome: Viella, 2002) 28.

¹²¹ Kuehn, ‘Daughters, Mothers, Wives and Widows’, 99; Graziosi, M. Graziosi, ‘Women and criminal law. The notion of diminished responsibility in Prospero Farinaccio (1544-1618) and other Renaissance jurists’ in: L. Panizza (ed.), *Women in Italian Renaissance culture and society* (Oxford 2000) 172.

by treating them with leniency.¹²² This could mean that women were not prosecuted for the same kinds of crimes, but also that their sentences may have differed. Arguments like these have been made not only for Italy, but also for France, the French territories, Spain and England, despite ostensibly gender-neutral criminal codes.¹²³ Peter King and others have emphasised a possible leniency on the part of magistrates during the punishment process in other regions too: for a similar crime, women were treated less harshly.¹²⁴

The judicial leniency towards women is by no means considered to have been invariably present across early modern Europe. Various scholars have argued that the treatment of men and women differed significantly per crime category.¹²⁵ While it is believed that it applied to women's violent offences, other crimes such as infanticide and witchcraft were excluded from such a milder treatment.¹²⁶ The judicial treatment of women also differed from one legal system to another and from place to place.¹²⁷ Contrary to King's assessment based on a range of English towns, Walker, for example, argued that women were generally worse off than men in seventeenth-century Cheshire: women were disproportionately put on trial, were found guilty relatively more often than men, and were almost twice as likely to receive a death sentence.¹²⁸ Because the law embodied inherently male standards, homicides committed by men and women were not only perceived as intrinsically different, but, in addition to this, women had fewer chances of mitigating the death sentence as they could not appeal to the same exceptions as men. The Cheshire example underlines that the moral and legal norms that underlay sentencing varied across time and space. A closer contextual examination of the law and penal practice is thus pivotal to the understanding of gendered sentencing patterns in early modern Bologna.

To be able to examine gender differences in sentencing, we must first gauge sentencing patterns in general. In Italy, as elsewhere in early modern Europe, a significant proportion of the cases brought before the criminal courts were never concluded with a

¹²² Angelozzi and Casanova, *Donne criminali*, 227–54 ; M. Graziosi, 'Women and criminal law', 173.

¹²³ Angelozzi and Casanova, *Donne criminali*, 47, 227-254; Graziosi, 'Women and criminal Law', 173; L. Buttex, 'L'indulgence des juges? La femme incriminée à Genève au siècle des Lumières. Genre et répression pénale (1767-1792)', *Crime, history & societies* 19:1 (2015) 41-65.

¹²⁴ P. King, 'Gender, crime and justice in late eighteenth and early nineteenth-century England', in M. Arnot and C. Osborne (eds.), *Gender and crime in modern Europe* (London: UCL Press, 1999) 66-67; Palk, *Gender, crime, and judicial discretion*, 161, 176.

¹²⁵ Buttex, 'L'indulgence des juges?', 61; Angelozzi and Casanova, *Donne criminali*, 227-254; Sbriccoli, 'Deterior est condicio foeminarum', 85-86.

¹²⁶ Angelozzi and Casanova, *Donne criminali*, 230.

¹²⁷ R.N. Tsakiri, 'Deviance and morals. A study of sixteenth-century Crete under Venetian rule. An initial exploration', *Crimes and misdemeanors* 1:2 (2007) 166.

¹²⁸ Walker, *Crime, gender and social order*, 113, 158, 197-201.

formal sentence. This was also the case in early modern Bologna, where a large number of the *processi* did not result in a formal conviction. Indeed, in their examination of Bologna, Angelozzi and Casanova found that what they called ‘real sentences’, such as the death penalty, incarceration, banishment, a sentence to the galleys, corporal punishment or fines, were quite rare before the early modern criminal court.¹²⁹ For Bologna they estimated that the *Torrone* only investigated 1 out of every 10 criminal complaints and would furthermore only pronounce sentence in a fraction of these. In my sample of urban *processi*, we can discern the outcome of their cases for more than two-thirds of the defendants. Table 4 shows that only about one in five of the Bolognese *processi* resulted in these supposed ‘real sentences’. This was true for both male and female defendants.

	Female defendants		Male defendants		Total	
Real sentences ^a	15	21%	242	19%	257	19%
Pardoned (<i>gratia</i>)	6	9%	172	13%	178	13%
Secondary sentences ^b	12	17%	128	10%	140	10%
Cancelled ^c	22	31%	455	35%	477	35%
Unknown	15	21%	290	22%	305	22%
	70	100%	1287	100%	1357	100%

Source: Sample 1 (see appendix), counted by identified defendant
^a Include death sentence, galleys, exile, incarceration, corporal punishment, fine
^b Include *precetto criminale*, surety
^c Includes a small proportion of those found not guilty, as well as cases cancelled due to insufficient evidence and peacemaking.

While in the past these unconcluded cases were primarily viewed as the products of a highly flawed and inefficient judicial system, scholars now emphasise the importance of other mechanisms. Drawing on other studies on criminal justice procedures in early modern Europe, Martin Dinges argued that the number of unconcluded cases were also the outcome of the strategic use of juridical procedures by ordinary men and women.¹³⁰ He argued that people often did not litigate solely to achieve a formal conviction from the court, but to try and negotiate other kinds of out-of-court settlements.¹³¹ In this light, recourse to the court should be seen as part of a wider set of formal and informal means of social control. Secondly, the authorities were also not that interested in punishing each crime that came before the criminal court. Indeed, while normative writings like Bologna’s summations of

¹²⁹ Angelozzi and Casanova, *Donne criminali*, 228, 230.

¹³⁰ Dinges, ‘The uses of justice’, 159-175; Dean, *Crime and justice in late medieval Italy*, 19-20; Niccoli, ‘Rinuncia, pace, perdono’, 234.

¹³¹ Dinges, ‘The uses of justice’, 161.

criminal by-laws prescribed harsh sentences for many crimes, the criminal courts were known to regularly mitigate the rigour of the law in practice.¹³² They did so because, ultimately, their goal was to maintain peace and order, if possible by mending the inflicted societal wounds through peace-making, giving pardons and reintegrating the culprit into the community.¹³³

The importance of the objective of peace-making and reintegration can be gleaned from the outcomes of Bologna's *processi*. Overall, about 13 per cent of the defendants were pardoned for their crimes and had their original sentences overturned. This is comparable to what we know about eighteenth-century Porto, where approximately 16 per cent of prisoners in the local gaol received a pardon.¹³⁴ Defendants could especially expect to receive a pardon for acts of violence, where peace-making between the offender and the victim or his/her family could result in a significant reduction of the sentence or a general pardon as it restored the social equilibrium. In the case of homicides committed in the city of Bologna between 1650 and 1750, Rose found that nearly 40 per cent of the killers received a pardon.¹³⁵ The granting of pardons and exemptions in response to a petition was not just an Italian phenomenon, but was widespread and "fundamental to the manner of governing in early modern Europe."¹³⁶ Furthermore, the cases against another one-third of the defendants were cancelled, either because they were truly deemed not guilty, because there was insufficient evidence or, not infrequently, because the complaint had been withdrawn by the plaintiff and a peace agreement was signed. Together, the pardon and the cancellation constituted nearly half of the *processi*'s outcomes.

Another 10 per cent of all defendants were discharged with a surety or a criminal injunction (*prechetto criminale*). In their examination of criminal justice in early modern Bologna, Angelozzi and Casanova distinguished these outcomes from 'real sentences' such as banishment, corporal punishment, or a sentence to the galleys.¹³⁷ According to them, the surety and the criminal injunction cannot be seen as real sentences, since they were conditional. The surety entailed that the accused would be released by means of suretyship that he or she would represent themselves to the court at the request of the *Torrone*. This meant that the trial would be suspended until further notice, and could be reopened if new

¹³² M. Bellabarba, *La giustizia nell'Italia moderna* (Bari: Editori Laterza, 2008) 84.

¹³³ Rose, *Homicide in North Italy*, 96-97.

¹³⁴ Abreu-Ferreira, *Women, crime and forgiveness*, 3.

¹³⁵ Rose, *Homicide in North Italy*, 132.

¹³⁶ G. Hanlon, 'Violence and its control in the late Renaissance: An Italian model' in G. Ruggiero (ed.), *A companion to the worlds of the Renaissance* (Oxford: Blackwell, 2002) 147.

¹³⁷ Angelozzi and Casanova, *Donne criminali*, 230

evidence was found.¹³⁸ The *prechetto criminale* was an injunction that could be imposed for a wide variety of crimes that in one way or the other disturbed the public order. It consisted of a conditional fine or sentence that would not be forfeited if the defendant upheld the requirements defined in the injunction. Lastly, the cases of two defendants charged with moral and sexual offences were sent to the archbishop's court for further examination.

For the 70 female defendants, these figures are roughly the same as for their male counterparts. This means that once a case was investigated by the *Torrone*, accused men and women had roughly the same chances of receiving 'real punishments' or having the cases against them cancelled. The number of female defendants is too small for any real statistical analysis on individual *processi* outcomes. However, indications of larger patterns can be discerned from the samples gathered. For example, differences can be found in the shares of those who were pardoned. For women, these shares are one-third lower than for men. Addressing the question of sex ratios in pardoning in pre-modern France, Natalie Zemon-Davis argued that such a discrepancy was explained by the fact that the crimes traditionally associated with women, such as infanticide and witchcraft, were not pardonable.¹³⁹ While these were not the types of crimes for which women were investigated in seventeenth- and eighteenth-century Bologna, it does seem likely that the discrepancy was related to the types of crimes for which men and women were investigated. Indeed, investigations concerning female defendants more often, in proportional terms, concerned property offences, while pardons were predominantly requested and granted for acts of violence and aggression.

Another important difference lies in the category of the 'secondary punishment' of the *prechetto criminale*, or the criminal injunction. These were formal orders that held those who received them to the injunction on penalty of a hefty fine, corporal punishment or a sentence (such as exile, the galleys or a death sentence). While, again, the individual sentence categories are too small for any statistical examination, they may be indicative of a larger trend. Women were nearly twice as likely to receive such an injunction as men. This discrepancy could be interpreted as an outcome of the perception of the less serious nature of women's crimes, ideas regarding gender-appropriate sentences, and/or as female defendants being treated with indulgence by a judge.¹⁴⁰

¹³⁸ *Ibidem*, 229.

¹³⁹ Zemon Davis, *Fiction in the archives*, 85.

¹⁴⁰ The same can be deduced from the data provided by Angelozzi and Casanova, although they themselves have not argued this. See Angelozzi and Casanova, *Donne criminali*, 228-229.

The criminal injunctions that male and female defendants received also differed in their form. Among the denunciations, 'peace orders' (*precetto de non offendendo*) were most prominent, requiring offending parties to keep the peace. Among the *processi*, however, these peace orders made up only about one-third of the *precetti* received. Another one-third of the men receiving a criminal injunction were ordered to remain available to the court for any future interrogations (*precetto de se presentando*) when deemed necessary. The last third of the male recipients of a criminal injunction was instructed to better their lives and 'apply themselves' work-wise, i.e. get a job (*precetto de se applicando*). Occasionally, men received specific instructions, for example to treat their mother-in-law better, or not to visit the tavern at night.¹⁴¹

For female defendants, the requirement to remain available for future questioning also made up a third of the criminal injunctions. Orders to keep the peace were far less prominent outcomes for female defendants in the *processi*, as only 1 out of 12 female defendants received a *precetto de non offendendo*. Injunctions ordering women to improve their lives (*precetto de bene vivendo*) were more prominent. Unlike these orders for male defendants, this did not concern their working lives. In five cases they came with specific instructions not to wander outside at night-time (*precetto de bene vivendo e de non vagando di notte*). This was not only true for the three cases in which the women were accused of wandering about at night, but also in one case of serious assault and one of attempted rape (either in a contemporary sense or as premarital sexual relations). Norms for appropriate sentences thus clearly bore gender distinctions.

Gender differences can also be found among the so-called 'real sentences'. Judges had a wide *arbitrium* for determining punishments according to the so-called qualities of the crime, the victim and the offender, but it was neither a requirement nor common practice to substantiate a sentence in the criminal records. Nevertheless, some punishments were evidently gender specific. This can be discerned both from the prescriptions of the criminal by-laws and from penal practice. The most pronounced example is being sentenced to man the oars of the papal galleys in the Mediterranean Sea. This was a common sentence as capital punishments had waned during the seventeenth century, but this sentence was never imposed on women.¹⁴² Another difference manifests itself in the types of corporal punishments administered to men and women. For men the so-called *strappado* (better known in Italy as the *corda*, i.e. the rope) was the most common type of corporal punishment.

¹⁴¹ For example see ASBo, Torrone, 7598-2, fasc. 41; 8171-2, fasc. 30.

¹⁴² Terpstra, 'Theory into practice', 123; Rose, Homicide in North Italy, 83.

It entailed a suspect being stripped down to the waist, having his hands tied behind his back and then being hoisted on a pole in the market or at the town gate, followed by a predetermined number of jerks to the cord.¹⁴³ For women corporal punishment generally entailed a public whipping through the streets instead, without being undressed. Table 5 shows that corporal punishment, as a sentence on its own, was very rare. It was more commonly used as an additional punishment before being banished or sent to the galleys and as a conditional penalty for a breach of criminal injunctions (*precetto criminale*).

TABLE 5. 'REAL SENTENCES' AMONG URBAN <i>PROCESSI</i> AGAINST MALE AND FEMALE DEFENDANTS CA. 1655-1755						
	Female defendants		Male defendants		Total	
Death penalty	0	0%	7	1%	7	1%
Banishment	11	16%	134	10%	145	11%
Galleys	0	0%	74	6%	74	5%
Incarceration	4	6%	19	1%	23	2%
Corporal punishment	0	0%	2	0%	2	0%
Fine ^a	0	0%	6	0%	6	0%
Other outcomes	55	78%	1052	83%	1107	82%
Total	70	100%	1287	100%	1357	100%
Source: Sample 1 (see appendix), counted by defendant						
^a Includes both fines and the restitution of goods or a financial substitution as a sole outcome						

Other sentences were less gender specific in their form. To be sentenced to death was very uncommon for both men and women in early modern Bologna. Although scholars have characterised the penalties from a century earlier as harsh, executions were hardly a daily event even then, and had furthermore declined significantly throughout the seventeenth century.¹⁴⁴ Indeed, out of the seven male defendants who received a death sentence, as many as five of them were convicted in the sample year of 1655. Most of them concerned homicides. While my samples for Bologna do not contain any women being sentenced to death, it was not necessarily a male preserve. Giancarlo Angelozzi and Cesarina Casanova have observed that two out of the 100 female defendants in their sample received a capital punishment for murder, one in 1587 and the other in 1728.¹⁴⁵

A much more common sentence than capital punishment was banishment. As elsewhere in early modern Italy, exile (often combined with the confiscation of goods) was the punishment most frequently imposed on defendants in Bologna.¹⁴⁶ Being convicted of

¹⁴³ Cohen and Cohen, *Daily life in Renaissance Italy*, 120 and Angelozzi and Casanova, *Donne criminali*, 231.

¹⁴⁴ Ibidem, 120, 122; Terpstra, 'Theory into practice', 123.

¹⁴⁵ Angelozzi and Casanova, *Donne criminali*, 228-229.

¹⁴⁶ Cohen and Cohen, *Daily life in Renaissance Italy*, 122.

theft was the most prevalent reason for banishment, followed by various acts of 'suspicious behaviour' associated with a mobile life (about a quarter). Incarceration was less common during the early modern period than it is today as it was regarded as unnecessarily cruel, unproductive and expensive. In Bologna during the five years sampled, 23 defendants were however either sent to perform forced labour at *Forte Urbano* (only men), a military fort at the border of Bologna and Modena built between 1628 and 1634, or at Bologna's poor house established in 1563 (mainly but not exclusively women), or were (more rarely) sentenced to a private incarceration.¹⁴⁷

The question of whether female criminals received a milder or a harsher treatment from Bologna's early modern criminal court is a difficult one to answer. Whether women benefitted from a kind of 'chivalric' attitude from the court has been a key focus in the recent work of Angelozzi and Casanova. They have contended that there was indeed a certain leniency towards women.¹⁴⁸ First, they argue that women's overall chances of receiving what they called 'real sentences' for their crimes were considerably slimmer than for men. While about five per cent of all of denunciations against men resulted in a criminal sentence, this was only the case for a little over one per cent of female offenders. Indeed, 'secondary sentences' like criminal injunctions were issued relatively more often against women than against men. The next chapter will demonstrate that this also happened at the level of the denunciations. This mechanism may be related to the notion that certain crimes were perceived as less dangerous when committed by women. Petty violence especially, as we will also see in the next chapter examining the denunciations, was a much larger part of reported than of prosecuted crime. Although there was a general hesitancy to prosecute these kinds of offences in a full inquisitorial trial, scholars have argued that cases against women were much more likely to be recipients of the judge's 'clemency' due to their assumed irrelevancy.¹⁴⁹

Second, ideas about women's criminal responsibility were contingent on the context of the crime. In particular, Angelozzi and Casanova found that female offenders were in general taken less seriously by the *Torrone's* judge if they had one or more male co-offenders. Whether the female defendants were accused of complicity or instigating the crime, in both cases the notion of a woman's weakness worked in her favour as she was then punished less

¹⁴⁷ *Le chiese parrocchiali della diocesi di Bologna, ritratte e descritte* (Bologna 1849), n.p., section 47 on 'Castelfranco'; Terpstra, *Cultures of charity*, 23, 40.

¹⁴⁸ Angelozzi and Casanova, *Donne criminali*, 230, 259.

¹⁴⁹ Gray, 'The regulation of violence in the metropolis', 79-81; Angelozzi and Casanova, *Donne criminali*, 259.

severely than her male co-offenders, or not at all.¹⁵⁰ While it is known that supposed 'typically female' crimes such as infanticide and witchcraft were excluded from a milder treatment, these crimes were also relatively uncommon before the *Torrone*.¹⁵¹ While women were certainly regarded as actors capable of criminal behaviours, ideas regarding the 'qualities' of her person resulted in a pattern of sentencing that was decidedly gendered.

Conclusion: The prosecution of Italian women in a comparative perspective

There are many indications that the criminal justice system's treatment of women was decidedly gendered. As elsewhere in early modern Europe, the Bolognese authorities had a large *arbitrium* in deciding an appropriate sentence and an offender's sex was an important determinant. Based on jurists' interpretations of the law, it is commonly believed that pre-modern women were able to benefit from judges' leniency when they committed crimes not traditionally viewed as 'typically female'.¹⁵² The early modern Bolognese *processi* support this idea, depending on the understanding of this leniency. For example, when subject to a formal investigation, there is little evidence that cases against female offenders were as a whole annulled more often. However, these female defendants did receive relatively more 'secondary sentences' compared to men. This could be interpreted as the outcome of a judge's indulgency towards women's less serious and less dangerous criminal behaviours. That women who had offended in groups were more likely to receive a lesser sentence, such as Diamante in the opening example, strengthens this argument. That men and women were treated differently before the criminal court has also been observed in many other early modern towns.

Other aspects stand out more for the early modern Bolognese case. When distilling prosecution patterns from the *Torrone's* investigation dossiers, two important features come to light. Firstly, violence plays a very large role in urban Bologna's criminal proceedings compared to its Northern European counterparts. Indeed, *antico regime* Italy has commonly been described as a particularly violent society.¹⁵³ Some scholars have therefore distinguished 'Northern' and 'Southern' European models of delinquency, in which the South distinguished itself by a sustained, much higher share of violence.¹⁵⁴ As the later

¹⁵⁰ Angelozzi and Casanova, *Donne criminali*, 239, 242.

¹⁵¹ *Ibidem*, 230; Buttex, 'L'indulgence des juges?', 61.

¹⁵² Buttex, 'L'indulgence des juges?', 61; Angelozzi and Casanova, *Donne criminali*, 230.

¹⁵³ Calzolari, 'Delitti e castighi', 55; Niccoli, 'Rinuncia, pace, perdono'. 223; Black, *Early modern Italy*, 188.

¹⁵⁴ Blastenbrei, *Kriminalität in Rom*, 284; M. Eisner, 'From swords to words. Does macro-level change in self-control predict long-term variation in levels of homicide?', *Crime and justice* 43 (2014) 68, 80-81, 84.

chapter on violence will show, throughout the early modern period even the lower estimates of homicide rates for Italian towns were higher than the mean rates for other parts of Europe. Seventeenth- and eighteenth-century Bologna is no exception.

The second distinguishing feature of the Bolognese pattern of crime prosecution is the very low share of women among the offenders investigated. Especially compared to Northern European towns, the differences appear to be significant. This raises the question of the extent to which this low share of female offenders can be attributed to the dominant 'culture of violence', which is often described as distinctly masculine.¹⁵⁵ However, the relationship between the two appears to have been more blurred than one may assume at first sight. The ethics of honour and gender norms meant that women's aggression was neither expected nor desirable.¹⁵⁶ In statistical terms women also made up only four per cent of those subject to a formal investigation for aggressive behaviour in early modern Bologna. However, the *processi* also show that violence was much more prominent among the crimes for which women were investigated than is commonly believed. It is therefore debatable whether Bologna's low female crime shares can be explained away by its culture of violence.

Two other factors seem more plausible. First, the existence of an extensive institutional web of care and control in early modern Italian cities may have influenced women's involvement in crime. Although the freedom and control of women depended on age, marital status and socio-economic class, it is generally held that the concern with women's sexual probity meant that women were nearly always subordinate to male authority of some sort.¹⁵⁷ It is generally the household that is discussed as the unit of control, since the *pater familias* had considerable means of exerting informal control over his wife, children and servants. As discussed in the previous chapter, what sets Italy apart is the important role played by a host of semi-public charitable institutions in connecting spheres of control for women at the fringes of society.¹⁵⁸ In early modern Italy, the social control of women was accomplished through 'custody' by respectable relatives, marriage, convents and asylums where women could be sheltered and, if needed, reformed, and then reinstated in society with new or old husbands, in the care of relatives or other shelters. It does not seem unlikely that the extensive web of control not only discouraged and obscured women's

¹⁵⁵ Ruff, *Violence in early modern Europe*, 75.

¹⁵⁶ Brackett, *Criminal justice and crime*, 133-134.

¹⁵⁷ Palazzi, 'Female solitude and patrilineage', 445; Kuehn, 'Daughters, mothers, wives and widows', 98; Cohen, 'Evolving the history of women', 326

¹⁵⁸ Woolf, *The poor in Western Europe*, 24.

deviant activity, but that the care that these early modern welfare institutions provided also reduced the need for many women to engage in crime as a survival strategy.

Secondly, early modern Italy's judicial culture probably played an important role in women's relative absence from the formal investigation dossiers. Indeed, the *processi* examined in this chapter represent the cases for which the criminal court was willing and able to start an inquisition. As elsewhere in early modern Europe, the Bolognese investigation dossiers demonstrate that the authorities' concern lay above all in repressing lethal and serious forms of violence that caused danger to life as well as in crimes against property. However, the *processi* only represented a fraction of the cases brought to the *Torrone's* attention. After all, there were about ten denunciations for each formal inquisitorial trial.¹⁵⁹ By far most of these far more plentiful denunciations concerned so-called 'minor crimes', such as petty acts of violence. As will be treated extensively in the next chapter, a comparison between the reported and the indicted crimes demonstrates that while the authorities by no means intended to prosecute all violent behaviour, they encouraged the use of the criminal court as a place of peace-making and conflict resolution. The category of 'petty crime' was relatively more important for women than for men, perhaps because women's crimes were more readily regarded as 'petty'. The combination of the authorities' prosecutorial filter and the reconciliatory legal culture could therefore play a significant role in obscuring the prevalence of women's involvement in certain deviant behaviours. For this reason, a broader perspective that includes recorded (rather than indicted) crime will be employed in the next chapters.

¹⁵⁹ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 565, 643.

CHAPTER 4. DENUNCIATIONS AND THE USES OF JUSTICE

On 6 March 1755 Lucia Tessori, a married spinner of stockings, was treated for a head wound at the Ospedale di Santa Maria della Morte, located nearby what is known today as Bologna's Piazza Maggiore.¹ Notified by the surgeon who treated her due to her 'suspicious wounds', as was required by law, a notary from Bologna's criminal court visited Lucia at her bedside to ask what had put her in this precarious position.² The situation she described was that of a quarrel that escalated between two neighbours: it started out with simple verbal insults and ended with Lucia receiving blows to her head with a hammer. As it turns out, Lucia had made a denunciation to the court about insults made by her neighbour Gertrude Carolini roughly a month before. Encountering each other again in the loggia of their apartment building a month later, Gertrude started insulting her once more and Lucia warned her that it would be wise to leave her alone; otherwise she would lodge a further complaint about her with the criminal court. The threat left Gertrude seemingly unfazed, replying that she feared nobody. The heated verbal exchange escalated into another attack, from which Lucia died later that month.

While Lucia's recourse to the court ended up being in vain for her personally, this example speaks to the agency of lower-class women as litigants – a latitude that has had only little attention in earlier scholarship. The previous chapter discussed the offences that came before Bologna's early modern criminal court primarily from the perspective of the prosecution policies of the authorities. Like other early modern criminal courts, however, the *Torrone* was more than an instrument for the authorities to impose top-down control on its inhabitants. Examining in detail the separately stored denunciations will demonstrate the importance of Bologna's early modern criminal court as a forum for conflict resolution, employed instrumentally and strategically by men and women to pursue their grievances.

This chapter begins with the historiography on women's use of justice in early modern Europe. Together with prescriptive literature, the relatively weak legal position that women had in Roman law has provided fuel for notions of a North-South divergence related to the access of and uses of justice. The first section will discuss recent works that call for caution and indicate that the differences may have been less extreme than such a dichotomy suggests. The next section analyses the denunciations and explains that the types of cases

¹ ASBo, Torrone, 8179-2, fasc. 2.

² Blastenbrei, 'Violence, arms and criminal justice', 70.

brought before the court diverge significantly from the prosecution pattern because of the court's role as a forum for conflict resolution. While this mechanism has been observed in most early modern European legal systems, it will shed light on some of the ways in which Italy's culture of peace-making stands out. It then looks at who was able to access and use justice, and stresses the importance of unmediated access to the court for women. Lastly, it examines people's objectives in employing justice, ranging from a real call for intervention by the authorities to a threat and an improvement in the litigant's extrajudicial negotiation power.

Women and the uses of justice in early modern Europe

Lucia's case against Gertrude is a good example of the way in which ordinary men and women employed the criminal court in their attempts to resolve their everyday conflicts. The notion that judicial institutions should not only be viewed as instruments of top-down control has been conceptualised by Martin Dinges' 'uses of justice'. Drawing on other studies on early modern criminal justice procedures, he argued that the role of the courts in society was equally determined by the people who made instrumental and strategic use of justice as part of a wider set of formal and informal mechanisms.³ These men and women did not employ justice solely to obtain a formal conviction from the court, but also – as Lucia's case also demonstrates – to try and negotiate other kinds of out-of-court settlements.

It has been suggested that the ways in which people made use of the courts was gendered. Dinges suggests that the judicial records mention fewer women because they were more inclined to solve conflicts through other informal or extrajudicial forms of social control, such as the family or neighbourhood. Women's economically dependent position and legally subordinate status prevented them from making optimal use of generally expensive formal legal procedures.⁴ Furthermore, there may in general have been different gender regimes that created more favourable conditions for women to access and make use of justice. Building on similar (though debated) hypotheses regarding labour force participation, residential arrangements and marriage patterns, the prevailing idea is that in Europe a north-south divergence may have existed in relation to the opportunities that the different juridical and normative systems gave to women and men to perform public roles in

³ Dinges, 'The uses of justice', 161.

⁴ *Ibidem*, 167-168.

society.⁵ Although such a dichotomy has not in itself remained uncontested, Italian women's relatively weak legal position within the patriarchal criminal justice system has contributed to an overall idea of a culture characterised by subordination and constraint, while opportunities for women to participate in public life in Northern Europe appear to have been more plentiful.⁶

In the past two decades, it has increasingly been shown how women were able to achieve considerable agency in the management and negotiation of their everyday lives through the instrumental use of law courts.⁷ Much of the research on women's ability to negotiate early modern legal systems has focused on examinations of ecclesiastical courts. Studies on England and Germany have shown that these ecclesiastical courts facilitated the participation of female litigants in a greater number than other courts, and that women employed them to pursue slander and defamation, and above all to strengthen their household authority in marital disputes.⁸ Despite the strong emphasis on the patriarchal orientation of early modern Italian society, a growing body of scholarship increasingly recognises Italian women from all social groups as pragmatic users of the law and the various types of courts in conducting their daily lives. Notably, similar to the works on England, several important works on ecclesiastical courts in early modern Venice and Rome by Daniela Hacke, Joanne Ferraro and Daniela Lombardi have convincingly argued that while women were undoubtedly victims of patriarchal privilege and an inferior legal status, they did have legal agency and used the court to their advantage in matrimonial disputes.⁹ The majority of matrimonial suits recorded came from women who called on the court to protect their wellbeing, manipulated neighbourhood opinion in order to forward their cause and drew on a series of tropes like violent marriages and sexual dysfunction to support their claims of separation or annulment.

⁵ For an overview of the development of the notion of a distinct 'Mediterranean model' from the 1960s onwards, see Viazzo, 'What's so special about the Mediterranean?', 111-137.

⁶ An important scholar criticizing the north-south dichotomy is Zucca Micheletto, 'Reconsidering the southern Europe model', 354-370; Viazzo, 'What's so special about the Mediterranean?', 111-137.

⁷ For a recent historiographical assessment of the legal agency of English women, see Kane and Williamson, 'Introduction', 1-16.

⁸ Kane and Williamson, 'Introduction', 7; L. Gowing, *Domestic dangers. Women, words, and sex in early modern London* (New York: Oxford University Press, 1996); Schmidt, 'Hausväter vor Gericht', 213-236.

⁹ D. Hacke, *Women, sex and marriage in early modern Venice* (Aldershot: Routledge, 2004); Ferraro, *Marriage wars*; D. Lombardi, 'Giustizia ecclesiastica e composizione dei conflitti matrimoniali (Firenze, secoli XVI-XVIII)', in S. Seidel Menchi and D. Quaglioni (eds.), *I tribunali del matrimonio (secoli XV-XVIII)* (Bologna: Mulino, 2001) 577-608; L. Ferrante, 'Marriage and women's subjectivity in a patrilineal system', in M.J. Maynes et al (eds.), *Gender, kinship, power. A comparative and interdisciplinary history* (New York & London: Routledge, 1996) 115-130.

Although ecclesiastical courts have been studied most extensively, they were by no means the only judicial forum employed by women. While women were underrepresented in serious crimes such as homicide, research on early modern Europe has indicated a much larger presence of women both as offenders and litigants among the lower criminal courts than was previously thought.¹⁰ For seventeenth- and eighteenth-century London, Jennine Hurl-Eamon has shown that, as plaintiffs, battered wives and women who fell pregnant after rape were able to gain recompense through the relatively cheap system of recognizances, making use of gendered preconceptions concerning their physical vulnerability.¹¹ In dealing with cases of petty violence Garthine Walker has furthermore shown for seventeenth-century Cheshire that these recognizances also played a crucial role for female plaintiffs who readily employed these juridical procedures of binding over their male and female assailants to peace and good behaviour to assert their authority both in and outside the household.¹² Daniel Gray's examination of London's eighteenth-century inexpensive summary courts has furthermore shown that while assaults between women were often not taken seriously by prosecutors, 'plebeian' women nevertheless regarded these courts as a useful public forum for arbitration that they could strategically utilise in the resolution of their violent conflicts with the members of their neighbourhood community.¹³

What legal leeway Italian women had outside marital disputes or extramarital sexuality and before other forums has received far less scrutiny. In general, there is a consensus in Italian historiography that early modern justice was utilised rather than merely imposed, but there are few studies that specifically examine the gender dynamics of having recourse to the law outside marital disputes.¹⁴ There is nevertheless evidence that women's use of other legal forums was not as uncommon as the historiographical silence may suggest. In a recent work on women's crimes in seventeenth- and eighteenth-century Bologna, Angelozzi and Casanova remarked that Italian women displayed a 'remarkable familiarity' with criminal justice. Without expanding the argument further, they asserted that the criminal court records reveal women demonstrating their "capability of developing effective strategies of accusation and defence."¹⁵ Elizabeth and Thomas Cohen also mention that the machinery of the law was used by ordinary Romans as an instrument of persuasion or

¹⁰ For an overview, see Van der Heijden, 'Women, violence and urban justice', 71-100.

¹¹ Hurl-Eamon, *Gender and petty violence*, 49-64.

¹² *Ibidem*, 65-90, 130-131; Walker, *Crime, gender and social order*, 75-112.

¹³ Gray, 'The regulation of violence in the metropolis', 79-81.

¹⁴ Cummins and Kounine, 'Confronting conflict in early modern Europe', 4.

¹⁵ Angelozzi and Casanova, *Donne criminali*, 257.

chastisement. A woman's suit for rape, they assert, might have been a plot to either "snag a husband or extort a dowry."¹⁶ Another work based on sixteenth-century prostitutes' recourse to the Roman criminal court furthermore provides evidence for the extensiveness of the practice of criminal litigation that may have stretched to even the lowest, marginal reaches of society.¹⁷ These works suggest that the opportunities women had to use justice in Italy may not have been as different as a simplified north-south model suggests – an inference that merits further investigation.

Denunciations before the *Torrone*

Both in Italian scholarship and elsewhere, a common critique of the quantitative analysis of criminal trials has been that they measure not the levels of actual criminal behaviour, but rather the functioning of the criminal justice apparatus.¹⁸ It is argued that the cases that were tried by criminal courts mainly consist of a selection of the crimes that occurred based on the state's knowledge of offences as well as its interests and prosecutorial priorities. This notion that the trials only represent a small fraction of actual criminal behaviour has been linked to the so-called 'dark number'. This concept refers to those crimes that occurred but were not reported or tried by the state or did not lead to a conviction, that therefore escape historians' awareness.¹⁹ In this light English scholars have argued that examinations of verdicts and sentences only provide a partial view and an underestimation of women's participation in the legal process.²⁰ Some have therefore begun examining alternative forms of legal action, such as prosecution by a recognizance, which featured much greater numbers of women in the roles of both complainants and offenders.²¹

In the case of many Italian cities, too, it is possible to gain a broader view of legal action beyond trials by examining the denunciations, i.e. the criminal complaints. Formal statements about alleged crimes were lodged either by state officials or, much more commonly, by the aggrieved party or his or her kin. In Bologna these denunciations have been preserved in the casebooks of the eight notaries who were hired to register them, and

¹⁶ Cohen and Cohen, *Words and deeds*, 20.

¹⁷ E.S. Cohen, 'Honor and gender in the streets of early modern Rome', *Journal of interdisciplinary history* 22:4 (1992) 609.

¹⁸ E. Grendi, 'Premessa', *Quaderni Storici* 66:3 (1987) 695-700; M. Sbriccoli, 'Fonti giudiziarie e fonti giuridiche. Riflessioni sulla fase attuale degli studi di storia del crimine e della giustizia criminale', *Istituzioni giudiziarie, criminalità e storia* 29:2 (1988) 491-501. This is also reflected upon by for example Van der Heijden, *Women and crime*, 11; Kilday, *Women and violent crime*, 2.

¹⁹ Van der Heijden, *Women and crime*, 3.

²⁰ Walker, *Crime, gender and social order*, 4.

²¹ *Ibidem*, 5; Shoemaker, *Prosecution and punishment*, 207-216; Hurl-Eamon, *Gender and petty violence*, 129-130.

were stored separately from the trial dossiers. Because these denunciations represent all documented, reported crime, they were understandably much more plentiful than the *processi* (the investigation dossiers examined in the previous chapter). For seventeenth-century Bologna, Angelozzi and Casanova have estimated that there are about nine complaints for every process initiated.²² There are about 300 processes for 3,000 denunciations each year. Although these denunciations are by no means an unbiased representation of the entirety of offences that took place in the city of Bologna, they do allow us to gauge reported rather than prosecuted crime. They furthermore present an image that comes closer to the everyday reality of perceived criminality because of the absence of the state's filter of prosecutability and the sheer quantity of offences recorded.

The types of offences that were denounced to the court are shown in table 6. It indicates the distribution of offence categories among 1,358 defendants (903 men, 241 women and 214 offenders whose identity is unknown) for 1,054 criminal complaints sampled between the mid-seventeenth and mid-eighteenth centuries. The largest share of the reported offences was concerned with violence: over two-thirds of the defendants were accused of some kind of physical or verbal aggression. Property crime, mainly consisting of theft, burglary and fencing, but also (much more rarely) of pickpocketing and robbery, is the second most common offence reported to the criminal court. Unsurprisingly, the identity of over half of the property offenders was unknown at the time that the denunciation was made since many thefts and burglaries from shops and houses were discovered hours after they had occurred and were reported to the court without any knowledge of who had committed the offence. Another crime category among the denunciations is that of offences against public order (11 per cent), which included the bearing of weapons within the city walls without a licence, not having the correct licence to stay in the city, begging and vagabondage, the violation of banishment and resisting the authorities. Sexual offences, as discussed before, were rarely denounced to the criminal court.

Although the pattern of crimes denounced resembles that of the *processi* in broad strokes, there are also important differences, particularly for female defendants. As we have seen in the previous chapter, violence constituted the largest offence category among the investigation dossiers (*processi*), but featured even more prominently among the denunciations. When we examine the defendants identified in the court records, the difference between the denunciations and *processi* is amplified. In the *processi*, about 44 per

²² Angelozzi, and Casanova, *La giustizia in una città di antico regime*, 565, 643.

cent of the male defendants were accused of various violent acts compared to two-thirds in the denunciations. Interestingly, the difference is even larger for women. While a third of the female defendants in the *processi* were charged with violence, women’s violent acts made up 82 per cent of their reported crimes in the denunciations. This observation counters popular assumptions regarding women’s passivity in violence and constitutes a point of departure to re-evaluate women’s deviant behaviour in general, as well as the way that they were able to make use of the court.

TABLE 6. REPORTED OFFENCES IN URBAN DENUNCIATIONS, CA.1655-1755									
	Female defendant		Male defendant		Total ^a		Unidentified offender		Total in <i>processi</i> ^b
Violence	197	82%	602	67%	799	70%	4	2%	43%
Property	27	11%	163	18%	190	17%	209	98%	28%
Public order	11	5%	119	13%	130	11%	0	0%	26%
Sex	2	1%	5	1%	7	1%	0	0%	3%
Misc	4	2%	14	2%	18	1%	1	0%	1%
	241	100%	903	100%	1144	100%	214	100%	100%

Source: Sample 2 (see appendix).
^a Total excludes unidentified offenders
^b Total from *processi* is derived from Chapter 3, table 3.

Importantly, the examination of Bologna’s denunciations suggests that the pattern of offending was not as different for male and female offenders as earlier scholarship suggested. A reappraisal of the categories of ‘male’ and ‘female’ crimes has already been provided by Garthine Walker, who argued that women participated in most categories of crime and were furthermore much more likely to participate in non-‘female’ offences.²³ This also holds true for urban Bologna, especially in the complaints. Here the supposedly quintessential ‘male crime’ of violence bore much greater proportional importance to women’s palette of recorded deviancy than that of men. Although women’s crimes have traditionally been likened to witchcraft and sexual deviance, this is not reflected in the *Torrone’s processi* and even less in its denunciations. Instead, what brought women before the secular criminal court was roughly the same kinds of transgressions as men, particularly acts of petty violence, thefts and to a lesser degree disturbances of the public order. The main difference between the *processi* and the denunciations in this respect is that the range of offences is larger in the complaints, for both male and female defendants. This highlights the

²³ Walker, *Crime, gender and social order*, 4.

numerical and proportional importance of petty offences for both women and men, despite this not being reflected in what the *Torrone's* officials decided to investigate and take to trial.

Another aspect that stands out from the denunciation concerns the female crime shares. Women's involvement in criminality in early modern Europe has commonly been described from the perspective of their near 'absence'. The same can be said for Italy, for which the previous chapter has shown that the estimated female crime shares were even lower than in their already low Northern European counterparts. An examination of Bologna's investigation dossiers (the *processi*) has demonstrated that only five per cent of the defendants indicted in the city of Bologna were women. However, a closer look at the denunciations nuances this image. With a participation rate of 21 percent, Bolognese women formed a quantitative minority among accused offenders in the denunciations, but this rate was not dissimilar to the shares found elsewhere in early modern Europe. In many ways this is comparable to the situation of Holland and England, where research has shown that the share of female offenders was also much higher among lower criminal jurisdictions.²⁴ It is furthermore important to emphasise that the difference between the share of female offenders in the denunciations and the *processi* did not necessarily mean that making a denunciation was futile in early modern Bologna. To understand why this was the case, the following sections will delve deeper into the functioning of the criminal court and the objectives of litigation.

The *Torrone* as a forum for conflict resolution

The discrepancy between the types of cases that we find in the denunciations and the processes can be explained to a large extent by the *Torrone's* functioning as a forum for conflict resolution. In part, these criminal complaints reflect the authorities' priorities, since officials such as the police captain captured and denounced people who acted against the public order as described in the city's by-laws, such as bearing arms without the correct licences. But in the city this only constituted a small fraction of the complaints recorded by the criminal court's notaries. Rather, the large majority of cases in the city were brought to the court by those who were wronged themselves. They brought to the fore a large number of complaints, often about petty brawls, in a bid to settle their conflicts with their disgruntled former friends, acquaintances, neighbours and co-workers. Formal interventions in the form of criminal investigations or prosecution of these kinds of cases were, however, few and far

²⁴ Van der Heijden, 'Women, violence and urban justice', 71-100.

between. This is evidenced by the sheer volume of the criminal complaints: as mentioned before, some 3,000 complaints were registered annually compared to 'only' 300 to 400 inquisitorial trials that were started.²⁵ As will be discussed in more detail later, the denunciation was not always a request for formal state intervention, but rather a stepping stone to settle the conflict through so-called 'infrajudicial' means.²⁶ These include the well-known peace-making through notarised peace contracts, but also include a wide range of other types of informal settlements. The court's officials accommodated this particular type of use of the court by the Bolognese inhabitants, and are in fact believed to have played an active role in encouraging and pressuring the victims and their kin to accept their enemies' peace-making attempts.²⁷

The extent to which Bolognese men and women were able to employ the criminal court for their conflict resolution had historical roots in the development of the legal system. According to a growing body of scholarly work, composition and peace-making had a central function in early modern criminal justice.²⁸ It is particularly relevant for Italian history, where scholars have pointed out that the relative societal acceptance, legitimacy and comparatively higher rates of violence went hand in hand with a culture of peace-making.²⁹ This pacification aimed to re-integrate the assailant into the fabric of society. As elsewhere in early modern Europe, this was a remnant of the older forms of community justice that customarily occurred extra-judicially. In Italy during the early modern period, however, peace-making was incorporated in the state's developing criminal justice system, encouraging arbitration among its plaintiffs and defendants, favouring social harmony over formal judicial intervention.³⁰ Although early modern Italian criminal courts had an inquisitorial system, some accusatory procedures relating to peace-making survived.³¹ Victims of a crime or their close kin had the right to lodge an accusation against assailants and also had the right to withdraw this complaint following composition. The exact regulations regarding this right to withdraw differed from city to city, and varied over time,

²⁵ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 565, 643.

²⁶ The term infrajudicial refers to practices 'underneath' the official court system and is most known from Benoît Garnot's work. See B. Garnot, 'Justice, infrajustice, parajustice et extra justice dans la France d'Ancien Régime', *Crime, history & societies* 4:1 (2000) 103-120.

²⁷ Rose, *Homicide in North Italy*, 85-86.

²⁸ Cummins, 'Forgiving crimes in early modern Naples', 255; Cummins, and Kounine, 'Confronting conflict in early modern Europe', 9.

²⁹ Broggio and Caroll, 'Violence and peacemaking in early modern Europe', 5; Rose, *Homicide in North Italy*, 20; O. Niccoli, *Perdonare*, 38-39.

³⁰ Bellabarba, 'Pace pubblica e pace privata', 189-213.

³¹ Cummins, 'Forgiving crimes in early modern Naples', 260-261.

but it is clear that plaintiffs in Italy had an acknowledged basis for negotiation outside of formal judicial intervention.³²

Some scholars have furthermore pointed to additional specifically local circumstances that encouraged the development of an accessible criminal justice system promoting conflict resolution. Following the 1506 conquest of Bologna by Pope Julius II and the expulsion of the Bentivoglio oligarchs, the papal legates – cardinals installed as city governors by the Pope – established the *Torrone* as a new, professional criminal court in which papal authority was firmly represented. Rose argued that the *Torrone* served to undercut the power of the powerful, rebellious local elite by expanding the papal authority's hold on the community.³³ As a free and relatively efficient and reliable forum for conflict resolution, the *Torrone* functioned as an alternative to the capricious and now illegal feudal courts. The inhabitants' use of the criminal justice system was thus considered pivotal to the consolidation of the state's power and, indeed, they increasingly brought their conflicts to the *Torrone* for resolution.

The criminal court's accessibility was maintained throughout the seventeenth and eighteenth centuries and entailed that theoretically all crimes and conflicts could be freely brought before it. This did not mean that this was the case in practice. Firstly, as we will see in the next section, there were certain gendered impediments to accessing and employing the court. Secondly, it also did not mean that all reported offences were prosecuted. The *processi* largely dealt with theft and the more serious forms of violence that led or could potentially lead to death - an offence that only made up a very small proportion of the offences reported. The lion's share of the denunciations on the other hand concerned petty physical and verbal fights; types of offences that the *Torrone* was generally disinclined to prosecute in a full inquisitorial trial. The court's statutes even specifically instruct the judges not to pursue minor crimes such as insults, threats, non-life-threatening fights among the lower classes and family disputes.³⁴ As elsewhere in early modern Europe, these petty offences were treated very much as what we now consider a civil matter rather than a criminal concern.³⁵ Rather than crimes worthy of prosecution by the authorities, the acts were regarded as conflicts between individuals, focusing on arbitration and compensation instead of punishment and reform.

³² Niccoli, 'Rinuncia, pace, perdono', 234.

³³ Rose, Homicide in North Italy, 61.

³⁴ Angelozzi and Casanova, *La giustizia in una città di antico regime*, 391.

³⁵ Gray, 'The regulation of violence in the metropolis', 75-77; P. King, 'The summary courts and social relations in eighteenth-century England', *Past & Present*, 183 (2004) 147-150.

That law and dispute resolution mixed was a broader early modern European phenomenon. In England during the seventeenth and eighteenth centuries minor crimes were generally resolved at the lower end of the criminal justice system through the summary courts of the Justices of the Peace that were inexpensive, informal and largely lawyer-free.³⁶ On the continent, too, there were various so-called peacemaker courts that were also characterised by transparent procedures and operated practically at no cost.³⁷ In Bologna under the early modern Papal States, law and the informal practice of dispute resolution mixed all throughout the criminal justice procedure. It was a prosecutorial body, a place for summary justice procedures and a forum for peace-making. This peace-making was by no means limited to the peace accords and petitions to which so much scholarly attention has been paid.³⁸ The denunciations bear witness to manifold strategies in employing the criminal court to settle conflicts, which will be explored in more detail later on in this chapter. Bologna was, of course, no exception, as the dockets of criminal courts in other cities such as Rome functioned according to similar mechanisms.³⁹ As with the summary courts and procedures in England, Bolognese men and women experienced and employed the law above all by lodging a criminal complaint for the more petty types of offences such as petty physical or verbal fights.⁴⁰ Rather than being emblematic of the authorities' prosecution policies, a large proportion of these criminal complaints are indicative of the interests, priorities and strategies of the plaintiffs.

The urban context of women's litigation

Although the use of the criminal court to resolve disputes was publicly encouraged by the *Torrone* by presenting itself as accessible, reliable and free, there were gendered impediments to accessing it. The previous chapter described how inhabitants of even the most remote hamlets in the territory could theoretically bring conflicts to the court through an elaborate intelligence network of local officials both in the cities and the surrounding countryside. The criminal court was nevertheless more accessible in the city of Bologna itself, as complaints could also be brought to the court's notary in person. And since the court was situated in the

³⁶ King, 'The summary courts', 126-127; Gray, 'The regulation of violence in the metropolis', 76.

³⁷ G. Vermeesch, 'Reflections on the relative accessibility of law courts in early modern Europe', *Crime, history & societies* 19:2 (2015) 53-76.

³⁸ Cummins, 'Forgiving crimes in early modern Naples', 255; Cummins and Kounine, 'Confronting conflict in early modern Europe', 9.

³⁹ Cohen and Cohen, *Words and deeds in Renaissance Rome*, 16, 26.

⁴⁰ King, 'The summary courts', 128, 136.

city centre of Bologna, these individual complaints were largely an urban phenomenon. Bologna's legal territory of 4,000 square kilometres was vast and mountainous, and most people in the countryside understandably relied heavily on the official go-betweens to reach the criminal court: over 90 per cent of the cases in the countryside were brought by a *massaro*. In the city of Bologna, on the other hand, going to the court in person was much easier and therefore much more common. In the city the large majority of denunciations were made by the victims themselves. The proportion of urban female litigants was also considerably higher: compared to the countryside, women in the city were more than twice as likely to make a denunciation.

The higher share of women among urban litigators may be explained by a combination of the higher involvement of women in crime in urban areas and a different use of judicial instruments. The extent to which women were able to lodge a complaint to the criminal court impacted the share of female defendants, since many of the female plaintiffs made denunciations against other women. John Beattie was among the first to explain the urban-rural disparity in female crime shares for early modern England by arguing that compared to their rural counterparts, women in cities lived more independent and public lives.⁴¹ They had a wider range of economic opportunities and more social contacts but lacked both the support networks and the communal informal control that could keep women out of the criminal justice system. Evidence from the criminal courts in various Dutch, French and English towns has also demonstrated that it was precisely the combination of their independence and vulnerability that has contributed to the high crime shares in the urban context.⁴² Although compared to English and Dutch cities female crime shares in other European regions were less high, the 'urban freedom and vulnerability' thesis also seems to hold for Italy. In their study of early modern Bologna, Angelozzi and Casanova also found higher female crime shares in the city than in the countryside. They explained this discrepancy by pointing to the freedom of the city, the less extensive social control exerted by the male authority, the neighbourhood and the parish, as well as the greater opportunities for socialisation that led to more occasions for conflict.⁴³

⁴¹ Beattie, 'The criminality of women', 80-116.

⁴² Schmidt and Van der Heijden, 'Women alone', 21-38; Van der Heijden, 'Women, violence and urban justice', 71-100; K. Lambert, *Itinéraires féminins de la déviance. Provence 1750-1850* (Aix-en-Provence: Presses Universitaires de Provence, 2012); D.D. Gray, *Crime, prosecution and social relations. The summary courts of the city of London in the late eighteenth century* (Blasingstoke: Palgrave Macmillan, 2009); Shoemaker, *Prosecution and punishment*, 208-209.

⁴³ Angelozzi and Casanova, *Donne criminali*, 69.

The Bolognese case furthermore highlights the factor of access to justice. As discussed before, scholars generally assume that early modern women were more inclined to resolve their conflicts informally. Robert Shoemaker therefore suggested that the high share of female prosecutors in urban areas was related to the fact that they were less likely to have access to informal mediators such as local landowners and the clergy in these places.⁴⁴ The court records from Bolognese countryside villages are suggestive of the role of the *massaro* in this process. Ordered to relay crimes that occurred within their assigned territory to the *Torrone*, these local officials appeared to have played a large role as mediators in local conflicts in Bologna's surrounding villages. Angelozzi and Casanova have argued that this dependency on the local officials to register and report matters to the criminal court may have particularly restrained women's possibilities in bringing cases under the court's purview. They asserted that women's complaints were more likely to be deemed unworthy of the time investment of the *massaro*, to write down the complaint and to research the offence.⁴⁵ The idea is that women's disputes and petty crimes were possibly less likely to be relayed to the *Torrone* than men's because of their perceived unimportance. While women's disputes may have also been settled to their satisfaction through these informal means, it is important to note that not only women's preferences determined their involvement of the law. Particularly in the countryside, practical restraints also played an important role.

In the urban environment on the other hand, Bolognese women had better opportunities to formally bring their grievances before the criminal court because they did not have to rely on the assessment, judgment and intervention of a third party. It has been noted that women in the city of Bologna, for example, were much more likely to lodge a complaint against their husbands, fathers and brothers for subjecting them to violence, abuse and humiliation than in the countryside, where these matters were either dealt with without resorting to justice or were handled informally by the *massaro*.⁴⁶ The examination of the denunciations demonstrates that the same is true for other types of offences, such as fighting. Urban women's greater access to justice has left its impact on the kinds of offences that were recorded in the criminal records. For the plaintiffs, it brought with it a new set of possibilities to negotiate and manipulate the outcomes of their disputes. For women, the urban environment may not have provided only a more precarious context that may have

⁴⁴ Shoemaker, *Prosecution and punishment*, 209.

⁴⁵ Angelozzi and Casanova, *Donne criminali*, 70, 257.

⁴⁶ *Ibidem*, 118.

prompted deviant behaviour, but it also offered women who were the victims of offences better opportunities to resolve conflicts through the formal criminal justice system.

The social profile of the users of justice

Who were these women and men appearing before the court to pursue their grievances? In recent years, scholars have called attention to the need to be more specific about which sections of early modern communities made use of justice systems, to be able to better assess the developments in the accessibility and functioning of early modern law courts. Importantly, in her historiographical survey of works on both civil and criminal courts, Griet Vermeesch argued for a more socially differentiated analysis of the category of 'ordinary people' who were able to draw on formal legal infrastructures.⁴⁷ In a similar vein, Elizabeth Cohen has argued that the catch-all term of 'women' needs to be broken up into differentiating aspects that drastically affected the experiences of activities like litigation alongside gender, such as social class and life cycle.⁴⁸

It is generally assumed that in Italy 'ordinary people' were able to employ judicial instruments and courts and instruments in the resolution of their conflicts – not unlike elsewhere in Europe. To what extent these ordinary people included women and whether there were gender differences in the social composition of litigants is often not clear. In Italy, most explicit evidence on this topic comes not from criminal or civil courts, but from studies on notarial arbitration during the earlier, Renaissance period. Based on the records of one Florentine notary, Thomas Kuehn has put forward that arbitration was a rather open system used by 'all sorts of people'.⁴⁹ Both Andrea Zorzi's and Katherine Jansen's works on thirteenth- and fourteenth-century notarial peace contracts in Florence confirm this view, stating (without elaborating) that the protagonists of notarial peace settlements were generally not aristocratic magnates, but ordinary people, ranging from "humble paupers, servants and shoemakers" to wealthier artisans and merchants.⁵⁰ For fourteenth-century Reggio Emilia, Joanna Carraway Vitiello similarly argues that peace-making was used by people of every social standing, both men and women.⁵¹ That these conclusions about the broad participatory basis of private arbitration are also relevant for criminal litigation seems

⁴⁷ Vermeesch, 'Reflections on the relative accessibility of law courts', 56, 68.

⁴⁸ Cohen, 'Evolving the history of women', 326.

⁴⁹ Kuehn, 'Law and arbitration', 36.

⁵⁰ Jansen, 'Pro bono pacis', 428; Zorzi, 'Legitimation and legal sanction', 34.

⁵¹ J. Carraway Vitiello, *Public justice and criminal trial in late medieval Italy* (Leiden, Brill: 2016) 186.

plausible, since private concords could and frequently did halt prosecution before formal legal tribunals.

Some other scholars have disputed this notion about the broad participation of ordinary men and women in the legal process. The most explicit of these was Shona Kelly Wray, who examined private notarial arbitration in fourteenth-century Bologna. She too included peace agreements in her study, but placed them among other notarial compromises that primarily involved the transfer of property to conclude that, overall, most of the disputants actually belonged to the rather narrow societal stratum of the landed elite.⁵² Unlike the other studies, her work has provided some data about the extent to which women were involved in these notarial contracts, which appears to have been slight. Even the peace acts, which have been described as daily occurrences among all walks of life, were above all a male endeavour according to Wray, with 8.7 per cent of the disputants being female, and 1.1 per cent of the offenders.⁵³ While she posits a different perspective on the social composition of users of the law, Wray does remark that people were nevertheless probably more familiar with notarial culture than with the courts, which in her estimation remained foreign to especially women, the poor and rural residents.⁵⁴

Studies on later periods are more unanimous in their assessment that litigation in Italy was open to men and women from all walks of life. James Shaw's study on civil litigation in sixteenth- and seventeenth-century Venice shows that while women were underrepresented in the civil court, making up 6 per cent of all plaintiffs and ten per cent of all defendants, civil litigation was common among the ordinary, lower classes that sought recompense for crimes, resulting in small claims.⁵⁵ Before the ecclesiastical court during the same period, women constituted the largest proportion of litigants. In her work on marital litigation in sixteenth- and seventeenth-century Venice, Joanna Ferraro has calculated that women made up 75 per cent of petitioners before the ecclesiastical court.⁵⁶ She also mentions that while the petitioners ranged across the social spectrum, patricians were fewer than the people from the 'common orders', i.e. middle-to-lower classes, such as weavers, bricklayers, textile workers, merchants and fruit vendors. She suggests that this meant that men and women of all classes "in this urban centre thought they had a real chance to change their

⁵² S.K. Wray, 'Instruments of concord. Making peace and settling disputes through a notary in the city and contado of late medieval Bologna', *Journal of social history* 42:3 (2009) 735.

⁵³ *Ibidem*, 745.

⁵⁴ *Ibidem*, 751.

⁵⁵ J.E. Shaw, *The justices of Venice. Authorities and liberties in the urban economy, 1550-1700* (Oxford University Press, 2006) 19, 166.

⁵⁶ Ferraro, *Marriage wars*, 29.

domestic circumstances.”⁵⁷ Less is known about who came before early modern Italy’s criminal courts as defendants or plaintiffs. Nevertheless, it is increasingly acknowledged that ‘ordinary’ men and women also employed criminal justice procedures to pursue their grievances.⁵⁸ Who these commoners were has remained largely unstudied, especially as far as women are concerned. This is understandable from the perspective of the source material. As others have noted, the characteristics of wealth and status that marked social division during the early modern period were fluid, and the language of social description was imprecise.⁵⁹ Overall, an assessment of the social profile of the users of justice based on socioeconomic characteristics is difficult to give due to the nature of the sources. Although they can be systematically mined, markers of identity such as provenance and age, while meaningful and interesting, are beyond the scope of this section. What will be treated here are the occupational and marital status of the plaintiffs and defendants.

Just how scarce the information about the occupational and marital statuses is can be observed in table 7. This table shows a gendered skew in what information the sources provide. For men, it is far more common for the occupation to be listed than the marital status. For women the opposite is true. Discerning a woman’s marital status is easier than for men because of the way names were recorded in the sources. Men are always referred to as ‘sons of’, whereas women can be ‘daughter of’ (unmarried), ‘wife of’ or ‘widow of’. For the large majority (70 per cent) of the female plaintiffs such information is provided, as well as for 42 per cent of the female defendants. For men, information about marital status has to be derived from contextual information given in the denunciation and is therefore scarcer. Occupational information on the other hand is much more commonly recorded for men than for women. This information is provided for over half of the men and about a quarter of the women that appeared before the court. The following examination of the social profiles of the users of justice is inevitably only based on the cases that do provide this information and the following conclusions should therefore be approached with caution.

As opposed to information on occupation or estate, marital status is far more often recorded for women than for men in the criminal court documents. Nicole Castan, observing this phenomenon in her eighteenth-century French sources, suggested that the scarcity of this information for men was due to the fact that their social position was determined far less

⁵⁷ Ibidem.

⁵⁸ Cummins and Kounine, ‘Confronting conflict in early modern Europe’, 4; Niccoli, *Perdonare*; Cohen, ‘Honor and gender in the streets of early modern Rome’, 597-625.

⁵⁹ T. Hitchcock and R. Shoemaker, *London lives. Poverty, crime and the making of the modern city, 1690-1800* (Cambridge University Press, 2015) 4.

TABLE 7. INFORMATION ABOUT MARITAL AND OCCUPATIONAL STATUS IN THE DENUNCIATIONS, CA. 1655-1755

	Women				Men			
	Defendant (N=241)		Plaintiff (N=331)		Defendant (N=903)		Plaintiff (N=877)	
Only marital status	76	32%	168	51%	37	4%	32	4%
Only occupation	32	13%	23	7%	453	50%	460	52%
Both	24	10%	62	19%	52	6%	16	2%
Neither	109	45%	78	24%	361	40%	369	42%

Source: Extracted from sample 2 (see appendix).

TABLE 8. MARITAL STATUSES OF DEFENDANTS AND PLAINTIFFS IN THE DENUNCIATIONS, CA. 1655-1755

	Women				Men			
	Defendant (N=241)		Plaintiff (N=331)		Defendant (N=903)		Plaintiff (N=877)	
Unmarried	14	6%	36	11%	17	2%	5	1%
Married	84	35%	176	53%	71	8%	42	5%
Widowed	2	1%	18	5%	1	0%	1	0%
<i>No data</i>	141	59%	101	31%	814	90%	829	94%

Source: Extracted from sample 2 (see appendix).

by it than women's.⁶⁰ What was more decisive for men was their position in the household, the authority they exercised over the patrimony as well as their employment or habitual occupation. The roles, expectations and control of women, on the other hand, are believed to have hinged upon marital status. Scholars have argued that women, as daughters and wives, were always subordinate to male authority of some sort, be it that of the father, the husband, or someone substituting for them, although their legal agency did significantly expand through widowhood.⁶¹ These general ideas regarding women's increasing agency throughout the lifecycle does not directly translate to the plaintiffs and defendants that appeared before Bologna's criminal court. Table 8 shows the marital statuses recorded in the sampled denunciations in the *Torrone* between the mid-seventeenth and mid-eighteenth century. Although the data for men are most likely unreliable due to considerable underreporting, the coverage was broader and thus more reliable for women. There was a notable prevalence of married offenders and victims: of the plaintiffs and defendants before the *Torrone* whose marital statuses have been recorded, the married group was largest,

⁶⁰ Castan, *Les criminels de Languedoc*, 36-37.

⁶¹ Palazzi, 'Female Solitude and Patrilineage', 445.

followed by the unmarried (as in never-married) group and only lastly those who were widowed.

While judicial documents elsewhere in early modern Europe reveal a similar pattern, scholars question the extent to which this means that it was predominantly married women who sought out and encountered the law. For the recognizances in seventeenth- and eighteenth-century Middlesex, Robert Shoemaker argued that only the marital status of married women was recorded systematically. He therefore assumed that the women whose marital status was not described (71 per cent of all women in his samples) were thus predominantly unmarried men and women.⁶² This led him to conclude that it was not married but urban single women that were more likely to enter into disputes and settle their disputes in or through the court. While it is indeed important to consider the implications of this underreporting, I am unconvinced that all plaintiffs and defendants without a recorded marital status in Bologna's criminal court records were unmarried. Other explanations for why the proportion of married women may have been so large will therefore be scrutinised later on.

Married or not, it is important to stress that most of the urban women brought their own complaints to early modern Bologna's criminal court. Only in fewer than five per cent of the cases did their husbands, fathers, sons or employees make the denunciation in their name. This is a completely different account of women's scope of action than that provided by Samuel Cohn for Renaissance Florence. He identified the requirement of legal guardianship as one of the causes of women's declining position in the Renaissance period.⁶³ In Bologna during the seventeenth and eighteenth centuries, however, women were known to make denunciations for their young sons and, according to Angelozzi and Casanova, also sporadically for their husbands.⁶⁴ While *antico regime* Italy's women were normatively protected first by their fathers, husbands or legal guardians, it is clear that this did not shield them from committing an offence or being victimised, nor did it prevent them from seeking redress through a criminal court.

Occupation or information on estate was on the other hand far more commonly recorded for men than for women, with information provided for over half of the men and about a quarter of the women that appeared before the *Torrone* during the mid-seventeenth and mid-eighteenth centuries. In Florence centuries earlier, Samuel Cohn found that the *Otto*

⁶² Shoemaker, *Prosecution and punishment*, 209.

⁶³ Cohn, 'Women in the streets, women in the courts', 38.

⁶⁴ Angelozzi and Casanova, *Donne criminali*, 463.

di Guardia (a summary court according to Cohn) increasingly became the playing field of a privileged few.⁶⁵ In the fourteenth century, the crime that overwhelmingly involved lower-class urban working men and women was assault. By the fifteenth century, however, assault litigation had declined markedly while the vacuum was filled by privileged landowners, for the most part widows of patrician origin, who used the court to protect their rural propertied interests.⁶⁶ Aside from the question of whether Florence was representative for the situation in other Italian cities, there are few indications that this downward trend persevered throughout the early modern period. Cohen's work based on sixteenth-century prostitutes' recourse to the Roman criminal court for the scorning of their houses is indicative of the extensiveness of the practice of criminal litigation that may have stretched to even the lowest reaches of society.⁶⁷

The notion that common city dwellers engaged in litigation is reflected in the wide range of occupations that were recorded in the Bolognese criminal court proceeding. For their livelihood, defendants and plaintiffs of both sexes performed a wide range of professions, from servants, labourers, market sellers and struggling textile workers, to shopkeepers, skilled master artisans and some public officials such as notaries. Most of the accused *bolognesi* had offended against those of similar social status, although this image might have changed had not so many of the nocturnal burglars of workshops remained unidentified. Most of those that were identified, however, regardless of whether they were men or women, did not belong to the margins of society. Indeed, artisans, small-time market sellers, textile workers, prostitutes and even the occasional beggar found their way to the court to lodge a criminal complaint against their social equals. That a broad band of ordinary men and women appeared in the *Torrone's* records not only as defendants but also as plaintiffs was in part due to the lack of financial barriers to making a denunciation. Whereas civil litigation and notarial peace accords were costly, denunciations to the criminal court could be made free of charge.

The social profiles of plaintiffs and defendants were strongly related to the types of offences brought before the *Torrone*. Other studies on criminal women have already shown that an important difference existed in the social composition of offenders who committed violence and those accused of thefts. Scrutinizing eighteenth-century Surrey and Sussex, John Beattie has demonstrated that while single women and widows had the most important

⁶⁵ Cohn, 'Women in the streets, women in the courts', 16-38.

⁶⁶ *Ibidem*, 25-28, 32.

⁶⁷ Cohen, 'Honor and gender in the streets of early modern Rome', 609.

share among prosecutions of theft, more than 60 per cent of the women prosecuted for crimes against the person were in fact married.⁶⁸ He argued that the women accused of having committed some kind of violence were women in settled and established positions in the community, with a good proportion being married to “men of some substance”, rather than being part of the dispossessed and rootless sections of society. The overwhelming share of violent offences among the Bolognese denunciations (over 80 per cent for female defendants) thus helps to explain the high proportion of married women among plaintiffs and offenders, who drew on the criminal court procedures to settle their disputes. The different ways in which criminal court litigation could serve ordinary men and women in settling their everyday conflicts will be discussed in the next section.

Punishment and castigation as an object of litigation

Making a denunciation to the criminal court was a means to various possible ends. What did men and women hope to get from going to the criminal court? The court records speak to the existence of at least three objectives, which will be treated here. The first possible aim was to initiate a criminal prosecution and incite the issuing of a sentence. While this was not perceived as the sole function of the criminal court, early moderners certainly looked to the criminal courts to seek justice in the sense of a legal conviction of their adversaries. In the *Torrone's* records we can find allusions to the desired outcome of castigation by the authorities. In 1674, for example, Barbara, wife of Sabatino Barache, made a denunciation against her neighbour Francesca, who had not only insulted her with many injurious words but had also damaged two pots and the flowers in her yard by throwing stones.⁶⁹ In Barbara's eyes this was clearly retaliation for an earlier incident between their daughters. She concluded her complaint by stating that she was making this denunciation so that Francesca would be castigated (“gle ne dò la querela, per che siano castigati”). These kinds of requests were quite common among the seventeenth- and eighteenth-century denunciations. As a matter of fact, the objective of having the antagonist reprimanded occurred often and in a largely standardised form. In addition to the broad request for castigation, plaintiffs would ask for just punishment. In his denunciation, the innkeeper Giacomo Borelli, for example, describes wanting Gio Francesco Rossi punished according to what the judicial system prescribed after realising Rossi had attempted to engage a contract killer as a way to avoid

⁶⁸ Beattie, ‘The criminality of women’, 102, 106-107.

⁶⁹ ASBo, Torrone, 7028, fol. 20-21.

having to pay his debts (“gli ne do querela, et faccio instantia che il medemo Rossi venghi punito conforme vuole la giustitia”).⁷⁰

The appeal to court intervention is perhaps clearest in the case of theft. In more than half of the complaints concerning thefts, the plaintiff came to the court despite expressing having no knowledge about who the culprit was. Nevertheless, as we will see in chapter six, these kinds of crimes were taken very seriously by the authorities and if identified a thief could face a harsh sentence. Asking for prosecution and investigation by the authorities did not only mean punishing the offender for stealing, but also meant that the stolen goods retrieved from the culprit would often be returned to the injured party. Compared to violent quarrels, mentions of out-of-court settlements were significantly less common for denunciations of theft. This is shown in table 9, which reveals the outcomes of denunciations for theft and violence in the city of Bologna. A good number of denunciations were withdrawn or cancelled for both types of offences. However, among those accused of thieving only 12 of them were marked as withdrawn (*rinuncia*, 8 per cent), while in the other cases there was simply not enough evidence for an indictment. This is much lower than for other offences, such as verbal or physical aggression, for which complaints were withdrawn after a settlement much more often: the denunciations of nearly a quarter of the violent offenders are recorded as having been withdrawn (184 offenders, or 23 per cent).

TABLE 9. OUTCOMES OF DENUNCIATIONS FOR THEFT AND VIOLENCE IN URBAN BOLOGNA, CA. 1655-1755

	Unknown outcome		Withdrawn		Cancelled		Surety or <i>precetto criminale</i>		Indicted		Total
	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	
Theft	84	56%	12	8%	15	10%	14	9%	24	16%	149
Violence ^a	337	42%	184	23%	55	7%	201	25%	22	3%	799

Source: Extracted from sample 2 (see appendix), counter per accused offender.

^a The category of violence includes homicide, physical violence resulting in life-endangering wounds, petty physical violence, verbal aggression and the miscellaneous acts of aggression receiving a *precetto criminale*.

At the same time, the chances of a complaint about theft leading to an indictment and formal investigation also seem to have been better. Although the administration of subsequent judicial steps was patchy at best, at least 16 per cent of the complaints were followed up by a formal investigation. These were much better odds than for many other offences such as physical violence. It is therefore understandable that the combination of the investigation of the case and search for the culprit by the authorities, the chance of a formal

⁷⁰ ASBo, Torrone, 6609, fol. 100.

investigation being initiated and the opportunity to retrieve the stolen goods provided a clear incentive to make an appeal for a prosecution of thieves.

Litigation as a negotiation and a threat

Regardless of what plaintiffs stated as their reasons for bringing their complaint before the criminal court, motives beyond formal intervention often played a role. The aforementioned Barbara, who denounced her neighbour Francesca for insult and property damage, for example, unfolded in a way that so many did: it ended up in a withdrawal of the complaint (*rinuncia*) presumably following an extrajudicial financial settlement.⁷¹ In doing so it followed an established pattern, as by far most of the complaints lodged by litigants of both genders did not result in a 'full trial'. When presented to the court's magistrates, peace agreements – official, notarised documents that brought settlement to a dispute between two quarrelling parties – could and frequently did halt criminal investigations.⁷² The simple juridical withdrawal of the complaint (the *rinuncia*) bore less social weight than the peace agreement, but was also an established part of the legal process used by men and women of all social strata. Rita Mariani's study of criminal justice in Crevalcore, a village in the Bolognese countryside also subject to the authority of the *Torrone*, between 1633 and 1642 illustrates how roughly a third of all denunciations were withdrawn by the plaintiff through a *rinuncia*.⁷³ The aspects of negotiation and conflict resolution were thus fundamentally incorporated into the functioning of the criminal justice system in early modern Italy.

Rather than a straightforward request for court prosecution, litigation must therefore also be viewed as part of a negotiation process.⁷⁴ Based on his reading of various European studies on criminal justice, Dinges argued that plaintiffs of both genders were well aware of the threat emanated by a charge, and tried to employ it as a coercive measure in conflict resolution.⁷⁵ The act of the denunciation to the criminal court added a formal dimension to the negotiation that generally was considered at the very least troublesome to the defendant, and potentially also threatening and shameful. Cohen, in her examination of criminal court proceedings concerning house-scorning in sixteenth-century Rome, has suggested that the

⁷¹ ASBo, Torrone, 7028, fol. 20-21.

⁷² Nubola, 'Giustizia, perdono, oblio', 33.

⁷³ R. Mariani, *Criminalità e controllo sociale nella Crevalcore del seicento* (Unpublished Master thesis, Università degli studi di Bologna, 1991) 71-73.

⁷⁴ Cummins and Kounine, 'Confronting conflict in early modern Europe', 6.

⁷⁵ Dinges, 'The uses of justice', 163; C. Lansing, 'Conflicts over gender in civic courts' in J.M. Bennett and R. Mazo Karrass (eds.), *The Oxford handbook for women and gender in medieval Europe* (Oxford University Press, 2013) 119.

act of litigation gave the victims a way to bring down shame on their attackers.⁷⁶ That litigation was considered a part of the negotiation process is confirmed in the Bolognese sources. In 1674, Domenica Galli tried but failed to stop a fellow market seller, Antonio di Silvestrone, making his daily insults by threatening to lodge a complaint against him.⁷⁷ Unfortunately for her, he seemed rather unconcerned with the prospect, and told her to go for it.

This ambivalent attitude towards being accused of an offence in a court of law was by no means the standard response. Many plaintiffs in fact found themselves harassed by the defendants after making a denunciation with requests to retract it and clear their name.⁷⁸ In 1705 Andrea Mascagni refers to the complaint made against him three years before by his former female employers as a heavy burden, and requested it to be retracted.⁷⁹ That this could happen even years after the fact, demonstrates that a criminal complaint was not considered a triviality. Not all defendants limited themselves to merely inquiring about a possible withdrawal. In March of 1675 Francesca Pochettini found herself chased down the street by a dagger-wielding man called Donnino, against whom she had lodged a complaint some two months earlier for unspecified 'insolences'.⁸⁰ Rather than withdrawing the complaint, she reported her assailant again. Another example comes from the complaint against Pavolino Balini, who insulted, hit and threatened to kill his fellow coachman Rafael di Negrini with a sword in his hand after he had refused to withdraw a complaint from four years earlier.⁸¹ After several troublesome encounters, Rafael lodged a new complaint, declaring that he feared for his life after Pavolino had come to his house in the middle of the night. Later that day, an agreement was apparently reached and the complaint was withdrawn. These examples illustrate how litigation was not always a clear-cut request of formal intervention by the authorities *per se*. Instead, the pressure of an official criminal denunciation was used by ordinary men and women in the negotiation of their interests within the community.

⁷⁶ Cohen, 'Honor and gender in the streets of early modern Rome', 624.

⁷⁷ ASBo, Torrione, 7028, fasc. 26.

⁷⁸ ASBo, Torrione, 7606-1, fasc. 278; 7606-1, fasc. 81.

⁷⁹ ASBo, Torrione, 7606-1, fasc. 27-30.

⁸⁰ ASBo, Torrione, 7028, fasc. 254-255.

⁸¹ ASBo, Torrione, 6653, fasc. 296-297.

Enforcing peace through peace injunctions

There were also hybrid objectives that were somewhere between hoping to achieve concrete action from the authorities and the bolstering of the plaintiff's bargaining power. The appeal to specific legal instruments such as the peace injunction is a good example of this objective. Mechanisms of negotiation, empowerment and shaming also come into play with the appeal to specific legal instruments. This is illustrated by the case of Bolognese biscuit seller Ignazia Odorici, who appeared before one of the *Torrone's* notaries to file a complaint against Francesca Tacchini, a seller of used goods, on 23 December 1755. Francesca had a way of finding Ignazia wherever she went and always insulted and threatened her. While the underlying causes of the dispute remain undisclosed, Ignazia emphasised that this was a long-lasting conflict that she had been unable to settle herself through other measures. After one particular day when Francesca had also insulted and threatened her family, Ignazia made her way to the court describing being compelled to send for an injunction ("sono stato costretta spederle un precetto da questa tribunal").⁸² The phrasing here is meaningful: Ignazia did not request just any kind of formal intervention; she assumed she could go to court and get a peace injunction. The court records demonstrate that these legal instruments were not solely top-down measures of control, but that men and women were active and knowledgeable litigators steering the case towards a specific outcome that considerably enhanced their negotiating position. In some instances, they were successful.

The *precetto de non offendendo* (literally an 'injunction to not offend') was a peace injunction issued by the judge at the criminal court, most often through summary procedure in the phase of the denunciation. In its function it resembled the 'recognizances' issued by London's Justices of the Peace at the Quarter Sessions as well as so-called 'Letters of Lawburrows' in Scotland.⁸³ All of these judicial procedures bound people to keep the peace through sureties or conditional fines. The Bolognese peace injunctions forbade defendants to 'violate or harass' the plaintiff and were, like the recognizances, the most popular form of dealing with assault in Bologna during the seventeenth and eighteenth centuries.⁸⁴ An authoritative eighteenth-century judges' manual describes the instrument of the *precetto* as an easy measure suitable for a wide range of frequent but relatively minor offences (*leggere*

⁸² ASBo, Torrone, 8171-1, fasc. 275.

⁸³ Hurl-Eamon, *Gender and petty violence*, 130; Kilday, *Women and violent crime*, 94; Shoemaker, *Prosecution and punishment*, 207.

⁸⁴ Hurl-Eamon, *Gender and petty violence*, 129.

deliquenze).⁸⁵ These could be violations of the public order such as 'being suspicious' and vagabondage, and could be used in a conditional release of the defendant to compel him or her to present him- or herself to the court if deemed necessary by the authorities. In Bologna between the mid-seventeenth and mid-eighteenth century, the *precetto criminale* was in practice very commonly ordered in the form of the *precetto de non offendendo* after verbal or physical (yet not life-threatening) fights.

The Bolognese peace injunctions differed from London's recognizances in their form. As the name suggests, the recognizances entailed a sum of money that would not be forfeited in case of good behaviour. Three sureties pledged this monetary amount as a guarantee that the offender would appear in court to answer to a charge and keep the peace.⁸⁶ No such sureties seem to have been necessary for the Italian peace injunctions, as the *precetto* functioned more like a cautionary and conditional monetary punishment.⁸⁷ The penalties of a violation of the peace injunction were different for men and women but were severe for both genders: ranging from a hefty monetary fine of 25 to 200 *scudi* (a servant's monthly wage consisted of about half a *scudo*) to public flogging for women or a sentencing to the galleys for a certain number of years (five, seven or ten years, or a lifetime) for men.⁸⁸ Another difference was that while the *precetto* had a standardised form that included the order to not violate or harass each other any longer, the exact configuration of the injunction could be tailored to the situation presented to the court, including clauses regarding specific places, times of day, or specific unsanctioned behaviour, such as drinking in public.⁸⁹ For the criminal justice system it was therefore a practical tool to achieve public order, since it relied less on active surveillance than on the community's willingness to report violations.⁹⁰ Indeed, the *precetti* became increasingly used throughout the early modern period in question: in the Bolognese casebooks the share of the peace injunctions increased from around seven per cent of all recorded outcomes of denunciations in 1650 to around 16 per cent in the mid-eighteenth century.

⁸⁵ F. Mirogli, *Istruzioni teorico-prattiche criminali di Filippo Mirogli Romano fiscal generale dedicate alla santità di nostro signore Clemente PP.XIII. Tomo primo* (Rome 1758) 80.

⁸⁶ Dinges, 'The uses of justice', 162-163; Hurl-Eamon, *Gender and petty violence*, 129.

⁸⁷ There are references to the surety of the *precetto de non offendendo* in Rome: Fosi, *Papal justice*, 64 as well as in Bologna: G. Angelozzi and C. Casanova, *La nobiltà disciplinata. Violenza nobiliare, procedure di giustizia e scienza cavalleresca a Bologna nel XVII secolo* (Bologna: CLUEB, 2003) 164-189.

⁸⁸ M. Di Sivo, 'Per via giustizia. Sul processo penale a Roma tra XVI e XIX secolo' in M. Calzolari, M. Di Sivo and E. Grantalio (eds.), *Giustizia e criminalità nello stato pontificio* (Rome: Gangemi Editore, 2001) 30.

⁸⁹ M.A. Savelli, *Pratica universale del dottor Marc Antonio Savelli* (Parma 1717) 227.

⁹⁰ S. Hughes, *Crime, disorder and the Risorgimento. The politics of policing in Bologna* (Cambridge University Press, 2002) 72, 79, 89.

The state and the urban authorities were not the only actors who had a stake in the *precetti*; plaintiffs did too. Like London's recognizances and Scotland's Letters of Lawburrows, the seventeenth- and eighteenth-century Bolognese peace orders were especially popular among women.⁹¹ By the end of the seventeenth century the *precetto* had a distinctly urban character and seemed to have been of particular importance to female plaintiffs and defendants. For women it was relatively more common for a denunciation to result in a *precetto* than for men: 27 per cent of all denunciations brought before the *Torrone* by a female plaintiff resulted in a *precetto* against their adversary, compared to only 12 per cent of denunciations by male plaintiffs. Out of the 196 peace injunctions that were issued for violence in this sample, women were relatively over-represented both as plaintiffs (42 per cent of all plaintiffs) and as defendants (42 per cent of all defendants) compared to their proportionally lower share among violent offenders.⁹² Theoretically there was no legislative distinction between the city and the countryside, but the court proceedings clearly show that *precetti* were mainly issued to city dwellers who had made a denunciation in person.⁹³ As mentioned before, urban women were not only more likely to become involved in criminal activities compared to their rural counterparts, but also had better access to the criminal justice system to make a denunciation. Without having to rely on local officials as go-betweens, plaintiffs were apparently better able to present their grievances in such a way that they could call upon this legal instrument.

Why were women disproportionately represented among plaintiffs and recipients of peace injunctions? On the one hand, the criminal court may have been more inclined to issue a restraining order for female plaintiffs in the context of women's perceived weakness and need for protection. The aforementioned concept of women as the *infirmitas sexus* roughly translated to women being considered weak, in need of assistance and having lower culpability.⁹⁴ Although it has been questioned how this concept worked in practice, the prevailing 'chivalry theory' assumes that early modern as well as modern legal professionals were generally inclined to protect 'weak women' by treating them with leniency in sentencing.⁹⁵ It seems plausible that this motive of protection played a similar role in the disproportional adjudication of the peace injunctions to female plaintiffs and defendants.

⁹¹ Hurl-Eamon, *Gender and petty violence*, 130; Shoemaker, *Prosecution and punishment*, 207; Kilday, *Women and violent crime*, 94.

⁹² In the 684 cases concerning all kinds of violence collected for this sample of denunciations, with 919 defendants, women made up 22.3% of the defendants and 30.2% of the plaintiffs.

⁹³ My sample counts only 2 countryside *precetti* (0.6% of the cases).

⁹⁴ Graziosi, 'Women and criminal law', 166-181.

⁹⁵ Angelozzi and Casanova, *Donne criminali*, 227-254.

Even if the woman was the aggressor against a male plaintiff, the idea that women needed to be protected 'against themselves' may be viewed from this perspective. This protection motive is reinforced by the fact that Italy's ecclesiastical courts ordered comparable peace orders to husbands who mistreated their wives.⁹⁶ According to the canonical treaties, women had the right to ask for a so-called *cauzione di non offendere*, a similar kind of security deposit intended to ensure that she would not be violated again.

On the other hand, women themselves may have also preferred appealing to these means over seeking more informal community mediation methods or violent confrontation. While the court records certainly attest to women's ability and audacity in violently confronting their male and female adversaries, women, unlike men, had little honour to gain from it. Behaving in a physically violent manner was by no means an uncommon mode of behaviour, but it was nonetheless considered 'unladylike' comportment frowned upon by contemporaries.⁹⁷ Historians of the nineteenth century have also argued that while women employed violence, it did not have specific resonances for their identity as women.⁹⁸ Because the practice of asking the authorities for a forced peace had no place within the traditional masculine conventions of honour, men may have more readily opted for other responses, such as peace-making or even the challenge to a fight, as these entailed higher esteem than court-ordered sanctions.⁹⁹

In the process of conflict resolution, coercive instruments like the *precetto* provided by the authorities like the *precetto* may have afforded more bargaining power particularly to those who customarily lacked it. Cohen has expressed a similar view in her examination of prostitutes' recourse to the criminal court in sixteenth-century Rome. While she argued that established households might resolve attacks on honour via other routes, prostitutes found in the criminal tribunal a "public and socially sanctioned forum in which to air their grievances and, within the conventions of honour culture, to spread shame on their attackers."¹⁰⁰ Litigation may have been a means for women to find an alternative response to violence. It not only spared them the inconvenience and the potential further dishonour of other possible strategies but also provided them with augmented leverage. For London, it has been argued that the motive behind assault prosecution was to achieve some kind of

⁹⁶ Cavina, *Nozze di sangue*, 119.

⁹⁷ Ibidem, 616; Brackett, *Criminal justice and crime*, 133-134.

⁹⁸ S. D'Cruze, 'Unguarded passions. Violence, history and the everyday' in S. D'Cruze (ed.), *Everyday violence in Britain, 1850-1950. Gender and class* (London, Longman, 2000) 14.

⁹⁹ Dinges, 'The uses of justice', 163.

¹⁰⁰ Cohen, 'Honor and gender in the streets of early modern Rome', 624.

compensation for the injuries that were inflicted, either financial or in the form of public apologies for attacks on their characters as well as their bodies.¹⁰¹ What the litigious Bolognese women expected of the law was probably not just an effective protection from their assailants, but also encompassed the negotiation of authority and honour, with offenders whom they would not challenge to a fight.

Conclusion: Criminal litigation, gender and agency

Until recently, the involvement of Italian women – whether as plaintiffs or defendants – in criminal justice has received little scholarly attention. Overall, the dominance of the notion of women’s inferior legal status derived from Roman law has contributed to the idea that women may have had limited legal agency, especially compared to Northern European societies. However, in line with studies on the ecclesiastical courts, the examination of the Bolognese criminal court in the seventeenth and eighteenth centuries provides further evidence for a more diverse practice in which women, like men, employed justice strategically to settle their conflicts. Not only does this confirm the notion proposed in other studies that women had certain legal agency within the household, it also shows that this extended to areas outside the home. Various works have already shown that women did not have to submit to mistreatment and could (and did) seek redress in ecclesiastical tribunals.¹⁰² The criminal court records shed further light on this relationship between women and their communities. In this formal legal structure of the criminal court, women found a forum through which they could wield and manipulate the power of social control and exert it over their community members.

While the authorities’ disinterest in prosecuting petty offences seems non-discriminatory, the experiences of litigation were undeniably gendered. In the Bolognese case, the reliance on male local officials in the countryside to relay cases to criminal court established a very structural impediment to women’s formal access to justice. It has been argued that for women more so than for men, direct access to the court was pivotal since the local officials were representative of a culture that was biased against them. Women’s use of formal criminal justice was therefore largely an urban preserve. Although the criminal court officially followed the inquisitorial procedure, in practice it also accommodated arbitration and summary justice. This opened up the chances for men and women to use the court to

¹⁰¹ Gray, ‘The regulation of violence in the metropolis’, 81, 83.

¹⁰² Hacke, *Women, sex and marriage*; Ferraro, *Marriage wars*.

pursue relatively petty grievances within their community. Similar to the English summary courts, women, like men, above all appeared before the court for disputes revolving around various forms of non-lethal violence. Whether urban women were more violent, more subjected to formal control or simply more litigious remains an open question, but what is certain is that the urban context did provide better opportunities for women to seek redress before the criminal court.

Compared to men, women could more often (in relative terms) count on the legal instrument of the 'peace order' for violent offences. This was true for women in the roles of both plaintiff and defendant. It does not seem unlikely that the importance of this conditional punishment for women is related to a protective motive from the judicial apparatus, but to understand its function it is also crucial to emphasise that women consciously used it as part of their negotiations. The ability to negotiate legal jurisdictions depended on various factors such as socio-economic status, as well as the expectations of the law.¹⁰³ The criminal court records provide evidence that women were well aware of the existence and threatening function of the peace injunctions, and expected to have a good chance of obtaining them. The very concrete inconvenience of conditional high fines, supplemented with corporal punishment and forced labour (in the case of male defendants) or public whipping (for women), provided useful leverage in the resolution of everyday conflicts. That Italian women made these requests in the face of a patriarchal legal system suggests that they in practice had more legal agency than their legal position alone would allow us to assume. An unintentional outcome of the patriarchal system was that women's supposed 'marginality' meant not that they were powerless, but that they were in some cases able to turn their status into bargaining power instead.¹⁰⁴

¹⁰³ Kane and Williamson, 'Introduction', 3.

¹⁰⁴ A similar conclusion is drawn from rural weaver women's petitions to counter guild claims, see Dumont, 'Women and guilds', 5-25.

CHAPTER 5. EVERYDAY VIOLENCE IN THE URBAN SPACE

On Tuesday 17 March 1705 a notary from Bologna's *Tribunale del Torrone* visited Maddalena Faesini at her sickbed in the *Ospedale di Santa Maria della Vita* to interrogate her about the life-threatening wounds to her face that brought her there.¹ She stated that she had received many blows to the head and jaw with an unidentified blunt object inflicted by a woman called Domenica Gombi. They knew each other and lived in the same street, and Maddalena assumed she was beaten up so badly because Domenica believed she had badmouthed her to the merchant they both worked for, presumably as spinners or weavers. The investigation of this beating, which had not only slashed the skin on Maddalena's face but also caused her teeth to fall out, was halted when the two made peace roughly two weeks later.

The notebooks of the criminal court's notaries in Bologna are filled with violent altercations similar to that of Maddalena and Domenica. Though discordant with normative expectations of women, such behaviours were an integral part of the day-to-day lives of the male and female artisans, peddlers and labourers in Bologna's dense urban fabric. Importantly, they were also considered an unwelcome interaction worth denouncing to the court. This chapter explores the gendered dynamics of these quotidian violent behaviours recounted in the *Tribunale del Torrone's* denunciations and *processi* for five sample periods between the middle of the seventeenth and eighteenth centuries. Through the examination of these criminal court records, this chapter will draw attention to the distinguishing features of early modern Italy's culture of violence and, importantly, establish women's place in it. It will ultimately argue that women's violent behaviour, although normatively discouraged and in part reflecting the socio-economic restrictions that they faced, was far too common to be viewed as an anomaly.

To do this, this chapter will first discuss the particular place of Italy (as a representative of the 'southern pattern') in European comparisons of long-term patterns of violence, how violence was regarded in the eyes of the law and how it was dealt with in practice, as the culture of violence went hand in hand with that of reconciliation throughout the early modern period. The next sections scrutinise women's participation in homicide as well as verbal aggression and, importantly, a wide range of non-fatal physical acts of violence. Although violence used to be predominantly studied from the perspective of homicide, this chapter builds on recent scholarship that includes the pettier forms of violence

¹ ASBo, Torrone, 7602-2, fasc. 19.

in its analysis. These violent altercations were far more common than their lethal counterparts and therefore more telling of men's and women's everyday encounters with violence and the law. The subsequent sections will inquire about the gendered nature of this everyday violence through several important aspects: the use of weapons, the social profiles of and relations between offenders and victims, the spatial contexts in which violence took place as well as some recurring differences in which the violence of men and women was framed in the judicial sources.

The culture of violence between prosecution and reconciliation

At least until the seventeenth century, violence was considered a regular feature of everyday life among many Western societies.² Robert Muchembled went so far as to state that "like death, like the cemetery which is at the heart of the village, violence is at the heart of life in the fifteenth, sixteenth, and seventeenth centuries."³ A special place in this narrative is held by the south of Europe, as the 'Mediterranean' culture and everyday practices are considered to have been especially violent. This assertion is continuing to receive criticism from various angles. Not only have scholars called the cultural homogeneity of this region into question, but there are also few comparable quantitative analyses for most parts of this area to substantiate any such claim.⁴ Many of the ideas about the south rely on the evidence from Italian towns and villages, also in relationship to violence.

Antico regime Italy has been described as particularly violent compared to other early modern European societies.⁵ Peter Blastenbrei, based on his examination of sixteenth-century Rome, explicitly spoke of distinct Northern and Southern European models of delinquency, in which the south distinguished itself by exhibiting a much higher share of violence.⁶ The special position of Italy in the long-term development of violence is furthermore highlighted in Manuel Eisner's integrative survey on European homicide rates.⁷ While in England and Holland a sustained decline of lethal violence set in during the sixteenth century, followed soon after by Scandinavia, Germany and Switzerland during the first decades after 1600, the

² Davies, 'Introduction', 1.

³ R. Muchembled, 'Anthropologie de la violence dans la France moderne (XVe-XVIIIe siècle)', *Revue de synthèse* 108 (1987) 40, as translated by Davies, 'Introduction', 1.

⁴ Mantecón, 'The patterns of violence', 243; Eisner, 'From swords to words', 84-85.

⁵ Carroll, 'Revenge and reconciliation', 101-142 106-107; Calzolari, 'Delitti e castighi', 55; Niccoli, 'Rinuncia, pace, perdono', 188.

⁶ Blastenbrei, *Kriminalität in Rom*, 284.

⁷ Eisner, 'Long-term historical trends', 83-142; M. Eisner, 'Modernization, self-control and lethal violence. The long-term dynamics of European homicide rates in theoretical perspective', *British journal of criminology* 41 (2001) 618-638.

homicide rates in Italian cities remained high until well in the nineteenth century, only after this time declining steeply. As we will see in the next section, new evidence from seventeenth- and eighteenth-century Bologna nuances this image, but does not contradict the broad outlines of the theory.

Why Italy appears to have remained so violent throughout the early modern period has been subject to much contemplation, but answers remain tentative. Scholars have often drawn on Norbert Elias' theory of the civilising process to explain the relatively quick decline in violence, including lethal violence, witnessed in the north of Europe.⁸ The rise of greater self-control as individuals internalised social constraints was promoted by the expansion of the state, with its monopoly on violence, and the extension of the market economy. In a recent article Stuart Carroll aptly summarises why the case of Italy complicates this image.⁹ Already during the Italian Renaissance social and economic interdependencies had reached levels far in advance of any in the north of Europe. Sophisticated bureaucratic and legal mechanisms had also been developed early on. In spite of these early administrative and judicial developments, the new regimes that emerged in Italy during the first half of the sixteenth century lacked the political legitimacy to effectively suppress the widespread factional violence at least until the middle of the seventeenth century.¹⁰

Scholars have also drawn on other cultural-institutional factors to explain the prevalence of violence in early modern Italy. Some have pointed to the persistence of an honour culture as a distinguishing feature of the Mediterranean region until well into the twentieth century.¹¹ In an honour-based culture one's honour was measured and conferred by one's peers. Having a clear social function, violence was considered both legitimate and sometimes obligatory to assert, defend and win masculine honour and escape shame.¹² According to Carroll, a distinctive feature of the Italian case was the widespread secular literature on the gentlemanly laws of honour and its relation to peace-making. While the practice of peace-making between individuals as a legitimate and honourable response to violence came under attack in Northern Europe, it continued to be held in high esteem in

⁸ Its most notable supporter is Pieter Spierenburg. See, for example, Spierenburg, *Violence and punishment*.

⁹ Carroll, 'Revenge and reconciliation', 105.

¹⁰ *Ibidem*, 106.

¹¹ Eisner, 'Modernization, self-control and lethal violence', 632; Carroll, 'Introduction', 35; Davies, 'Introduction', 1; Calzolari, 'Delitti e castighi', 55.

¹² Carroll, 'Introduction', 23, 27; Wood, 'Conceptualizing cultures of violence', 87.

Italy throughout the early modern period.¹³ The long continuity of peace-making procedures in early modern Italy – notably also in a formal, judicial sense – and its role in preserving a social system based on violent confrontation has been treated more extensively earlier in this book.

Though some scholars have argued that it was comparably ineffective, pre-modern Italian states had since long attempted to contain violent behaviours.¹⁴ Indeed, medieval and early modern towns are considered the birthplace of measures of violence prevention and containment.¹⁵ On a regular basis, statutes, civil oaths and bans defined violent acts as deviant behaviour, a view that was supported by a range of arms bans and night curfews renewed throughout the early modern period. In early modern Bologna important sources that shed light on the authorities' stance are the *Bando Generale* of 1610 by cardinal legate Benedetto Giustiniani and 1756 by Fabrizio Serbelloni; summations of the criminal by-laws issued on the occasion of the new cardinal legate taking office. Although as we will see the prescribed sentences were not rigidly enforced, they nevertheless reveal broader trends in the changing attitude towards deviant behaviours.¹⁶

Table 10 shows a simplified representation of the prescribed punishments for various violent crimes. While also delineating aggravating and extenuating factors, the seventeenth- and eighteenth-century criminal by-laws shared a pronounced disapproval of a wide range of violent behaviours and prescribed harsh sentences – even for instances where no blood was drawn. According to Serbelloni's 1756 *Bando Generale*, homicide was considered one of the gravest crimes humans could commit.¹⁷ It was viewed as both contempt against the Papal Prince and as an offence against God. Therefore, as a baseline all killers were prescribed (a variant of) a capital punishment in both of the by-laws. In Giustiniani's 1610 by-laws additional post-mortem corporal torture and disfigurements (*supplizio*) were stipulated for aggravating factors such as patricide.

¹³ Carroll, 'Revenge and reconciliation', 132.

¹⁴ F. Ricciardelli, 'Violence and repression in late medieval Italy' in S.K. Cohn jr. and F. Ricciardelli (eds.), *The culture of violence in Renaissance Italy* (Florence: Le Lettere, 2012) 68; M.B. Becker, 'Changing patterns of violence and justice in fourteenth and fifteenth-century Florence', *Comparative studies in society and history* 18:3 (1976) 282.

¹⁵ G. Schwerhoff, 'Social control of violence, violence as social control: The case of early modern Germany' in H. Roodenburg and P. Spierenburg (eds.), *Social control in Europe. Volume I, 1500-1800* (Columbus: The Ohio State University Press, 2004) 235; Dean, *Crime and justice in late medieval Italy*, 169.

¹⁶ Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 219-240.

¹⁷ "Fra li delitti, che nell'uman genere soglion commettersi, uno de' più gravi certamente è quello dell'omicidio volontario, che contiene in se una particolare offesa della Maesta divina, ed umana, un'atto di soprasina superbia contro Dio, ed il Principe, ed un'infinità d'altri mali." See *Bando generale Serbelloni 1756*, chapter VI, no. 1, page 11.

TABLE 10. SENTENCES FOR VIOLENT ACTS PRESCRIBED BY THE CRIMINAL BY-LAWS OF 1610 AND 1756			
Category	Condition	Punishments 1610	Punishments 1756
Homicide		Death penalty	Death penalty
Wounding (<i>ferite</i>), blows (<i>percosse</i>) or threat	Scarring to face/injury of genitalia	Fine of 200 <i>scudi</i> + 5 years galleys	Life-long galleys
	Injury to other parts of the body	Fine of 200 <i>scudi</i> + strappado	-
	Serious danger to life	-	Life-long galleys
	Some danger to life	-	7 years galleys
	No danger to life	-	5 years galleys
	With arms, no bodily harm	Fine of 100 <i>scudi</i> + strappado	Min. 5 years galleys
	With sticks, stones, fists, pushes or kicks	Fine of 100 <i>scudi</i>	-
Libels	-	Death penalty + confiscation of goods	Death penalty + punishment of 'degradation'
Insult/banter	-	Fine of 50 <i>scudi</i> + strappado	Strappado
Spitting in face	-	Fine of 50 <i>scudi</i> + strappado/1 month imprisonment	Strappado, in case of noble/respectable victim galleys
House-scorning	Against citizens, nobles or those of 'honest condition'	Galleys for 5 years	Life-long galleys
	Against <i>Persone vili o meretrici</i>	Fine of 200 <i>scudi</i> + 'strappado'	" but subject to reduction
Violent kissing/touching of virgins or other honest women	-	Fine of 300 <i>scudi</i> + galleys for 5 years	-
Serenading widows, single women or other honest women	-	Fine of 100 <i>scudi</i> + imprisonment for 1 month	Strappado

Sources: *Bando generale dell'illustrissimo, e reverendissimo sig. Benedetto card. Giustiniano legato di Bologna, pubblicato alli 23. di Giugno, & reiterato alli 24. di Luglio 1610 (Bologna 1610) 15-24; Bando generale della legazione di Bologna e suo contado, fatto pubblicare li 12. ottobre 1756 dall'eminentiss., e reverendiss. sig. cardinale Fabrizio Serbelloni, legato a latere di detta città (Bologna 1756) 11-38, 108-110.*

- Indicates that the category or criterion was not specifically addressed.

One particularly gruesome capital punishment was imposed on Andrea Malagù on 15 July 1675.¹⁸ He had committed a murder the year before and upon imprisonment had helped some other prisoners escape with a false key, but he had been caught and sent for trial. The printed announcement of his execution, which was intended as an invitation to the public, set out the grim procedure that awaited Andrea: he would be beaten to death, then

¹⁸ ASBo, Torrione, 7030, fasc. 9.

would have his throat slit and then would be quartered as a punishment for his crimes. Judging from the court records, elaborate spectacles like these were not that common and became increasingly rare as time went on. Indeed, in the 1756 by-laws explicit mention of these additional defaming measures are absent. This is in line with the notion that punitive regimes during the early modern period moved away from the publicly visible infliction of pain and suffering as a symbol of the repressive potential of the state.¹⁹ Instead, extenuating circumstances such as killing without malice and premeditation (resulting in five years in the galleys or forced labour) are treated more exhaustively. Similarly, accidental death and death resulting from a necessary defence would result in 'ecclesiastical immunity'. Although there is substantial evidence that the imposition of public executions also declined markedly over the seventeenth century, the more elaborate treatment of these topics must be viewed foremost as the intent to clear up past ambiguities and systematise the application of criminal justice and to diminish the discretion of the judges.²⁰

There was a significant discrepancy between written laws and judicial practice. Firstly, the penalty decreed by these by-laws would not necessarily be assumed in sentencing. As Gregory Hanlon has observed for the Renaissance period, statutory penalties were often deemed too harsh to apply.²¹ There were many aspects to the crime – such as the age, gender and social status of the offender and victim – that allowed the judge to arbitrarily adjust the sentence. For this they not only relied on the criminal by-laws, but also consulted the opinions of magistrates such as Gian Domenico Rainaldi, who had written a renowned syntax based on his work as a judge in Bologna between 1671 and 1676.²² Secondly, many sentences in early modern Bologna were overturned and converted into pardons. This was especially true for acts of violence, where peace-making between the offender and the victim or his/her family could result in a significant reduction of the sentence or a general pardon as it restored the social equilibrium. In the case of homicides committed in seventeenth-century Bologna, nearly 40 per cent of the killers received a pardon.²³ The granting of pardons and exemptions in response to a petition was not just an Italian phenomenon, but was

¹⁹ Eisner, 'From swords to words', 103.

²⁰ Ibidem, 104-105; Terpstra, 'Theory into practice', 123; Rose, Homicide in North Italy, 105; Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 223.

²¹ Hanlon, 'Violence and its control' 147.

²² See for an examination of his work Angelozzi and Casanova, *La giustizia in una città di antico regime*, 375-448; Casanova, *Crimini nascosti*.

²³ Rose, Homicide in North Italy, 132.

widespread and is viewed as “fundamental to the manner of governing in early modern Europe.”²⁴

A third way in which penal practice diverged from the norms specifically relates to the treatment of various types of violence. Compared to the daily practice represented by the *Torrone’s* denunciations and indictments, the heavy penalties prescribed for even the pettier forms of violence are striking. For the wounding of another person without (in the eyes of the surgeon) any danger to life, the 1756 by-laws prescribe a sentence of five years rowing in the papal fleet. Insults and insulting banter could yield three pulls of the *strappado*. In practice, however, only the more serious forms of violence were prosecuted by the *Torrone*. As we can see in table 11, the notaries’ record books brimmed with the fights and brawls that did not result in life-threatening wounds. The indictments on the other hand are disproportionately concerned with homicide and serious wounding.

TABLE 11. VIOLENT CRIMES AMONG DENUNCIATIONS AND <i>PROCESSI</i> , CA. 1655-1755						
	Homicide	Wounding with danger to life	Wounding without danger to life	Verbal aggression	Undefined violence ^a	Total
Denunciations (N=799)	1%	8%	49%	23%	19%	100%
<i>Processi</i> (N=588)	21%	43%	21%	15%	0%	100%

Source: Extracted from sample 1 and sample 2 (see appendix), counted by defendant.
^a As measured by the issuing or breach of a *precetto de non offendendo*

Not only did a large proportion of the violent acts not result in an indictment, the decreed punishments also greatly differed from the ones prescribed by the criminal by-laws. As has already been observed by others, ‘real sentences’ such as the death penalty, a sentence to the galleys or exile were quite rare before Bologna’s early modern criminal court.²⁵ With regard to the treatment of different categories of violent crimes, table 12 distinguishes two distinct patterns. The first pattern relates to the treatment of homicide, which compared to the other types of violence garnered a relatively large number of sentences to death, banishment and a number of years in the galleys. Furthermore, although a substantial proportion of killers were eventually pardoned, they were less likely to be absolved from the get-go than among other violent behaviours. Indeed, the other types of violence were by and large absolved, either due to insufficient evidence or, commonly, because the plaintiff

²⁴ Hanlon, ‘Violence and its control’, 147.

²⁵ Angelozzi and Casanova, *Donne criminali*, 228.

withdrew the complaint due to an unmentioned settlement. Most of the non-lethal violence was concluded through peace-making, despite the harsh sentences prescribed by the law.

There are indications that the judicial treatment of women's violence differed from men's in some ways. From a theoretical viewpoint it is often believed that female offenders were treated with a particular leniency by legal professionals due to the assumption of their weakness and need for protection (also called 'the chivalry theory').²⁶ For homicide in urban early modern Bologna the sample size of female killers is too small to draw any such conclusions.²⁷ In their quantitatively more extensive study on early modern Bologna, Angelozzi and Casanova observed that the few female offenders indicted for homicide received clemency more often, particularly when they had male co-offenders. In this case they were punished less severely or not at all.²⁸ Rose similarly contended that the few women that came before the *Torrone* for homicide during the seventeenth century were treated as accomplices rather than as killers with agency.²⁹

The much more common acts of non-lethal violence allow for a quantitatively more sound examination of gendered sentencing patterns. On the one hand, what stands out for women is the importance of the *precetto criminale*, a conditional fine demanding the discontinuance of offending and molestations (see table 13). On average, female offenders were proportionally at least twice as likely to receive such peace injunctions as male offenders, for all types of recorded violent transgressions. As has been argued before, it does not seem unlikely that the notion of women's weakness played into the scale to which these measures were imposed on them. Not only did they serve to protect the often female victims from further aggression, but it also likely served to protect female offenders against themselves. Whether this must be viewed from the idea that women's violence was largely irrelevant in the eyes of the court, or actually from a harsher treatment stemming from the intolerance of women's public violence, is still to be unravelled.

The treatment of women's violence did resemble that of men's in a very decisive way. After all, the majority of cases against female fighters were also cancelled and absolved following the withdrawal of the complaint, just like men's. Importantly, this reveals that cultural and judicial norms neither prevented women from employing violence nor excluded

²⁶ Ibidem, 18-19; Graziosi, 'Women and criminal law', 173.

²⁷ The sample only includes four female offenders indicted for lethal violence. Two of them were sentenced: one was incarcerated and the other female offender received a *precetto criminale*.

²⁸ Angelozzi and Casanova, *Donne criminali*, 239, 242, 259.

²⁹ Rose, Homicide in North Italy, 280.

TABLE 12. SENTENCES FOR VIOLENT CRIMES IN DENUNCIATIONS AND *PROCESSI*, CA. 1655-1755

	Capital punishment	Banishment	Galleys	Incarceration	<i>Prepetto</i> ^a	Surety	Cancelled ^b	Pardon	Total known
Homicide (N=109)	6%	6%	21%	2%	1%	2%	24%	39%	100%
Wounding with danger to life (N=213)	-	2%	3%	-	9%	1%	75%	9%	100%
Wounding without danger to life (N=285)	-	-	-	-	12%	4%	76%	8%	100%
Verbal aggression (N=139)	-	2%	1%	-	16%	5%	68%	9%	100%
Undefined violence (N=150)	-	-	-	-	100%	-	-	-	100%

Source: Extracted from sample 1 and sample 2 (see appendix).

^a *Prepetto de non offendendo*

^b Includes both cases that were absolved due to presumed innocence or lack of evidence as well as cancellations due to the complaint being withdrawn.

TABLE 13. SENTENCES FOR VIOLENT CRIMES COMMITTED BY WOMEN, CA. 1655-1755

	Capital punishment	Exile	Galleys	Incarceration	<i>Prepetto</i> ^a	Surety	Cancelled ^b	Pardon	Total known
Homicide (N=2)	-	-	-	50%	50%	-	-	-	100%
Wounding with danger to life (N=10)	-	-	-	-	30%	-	70%	-	100%
Wounding without danger to life (N=54)	-	-	-	-	24%	4%	67%	5%	100%
Verbal aggression (N=28)	-	-	-	-	29%	7%	64%	-	100%
Undefined violence (N=62)	-	-	-	-	100%	-	-	-	100%

Source: Extracted from denunciations and *processi* from sample 1 and sample 2 (see appendix).

^a *Prepetto de non offendendo*

^b Includes both cases that were absolved due to presumed innocence or lack of evidence as well as cancellations due to the complaint being withdrawn.

them from the peace-making practices that are believed to have been so intrinsic to the Italian culture of violence.

Although violence was viewed as undesirable, it also enjoyed a certain degree of tolerance. This was not only the case in Bologna and other Italian towns, but has also been observed for other regions during the early modern period. In Germany for example only notorious violent offenders' faces severe sanctions like imprisonment or banishment, while violent acts not resulting in death were regularly punished with fines.³⁰ As has been mentioned in previous chapters, in medieval and much of early modern Europe non-lethal violence was treated more as a civil than a criminal matter. Rather than punishment, the goal was to reconcile the two parties, to reintegrate the culprit into society and to re-establish social peace. While the Bolognese criminal by-laws officially prescribed harsh sentences, its court officials themselves are believed to have played active roles in pressuring the victims and their kin to accept their enemies' peace-making.³¹

That expectations of peace-making extended to all reaches of society is illustrated by the case of Giacoma Ferranina against Pellegrina Gentili in 1655.³² As Giacoma, a prostitute was walking home with her mother and sister after mass, Pellegrina for unknown reasons beat her with a stick and scarred her face. This was a serious offence, punishable by a hefty fine and a five-year sentence to the galleys. Offender Pellegrina understandably tried multiple times to have Giacoma renounce her complaint, which she refused. Pellegrina then turned to the court with a petition, explaining that she had been previously insulted and provoked by the plaintiff, which had led to the attack, that she had only wounded her slightly and that she had many times but unsuccessfully asked for a renunciation and therefore pled for the case to be annulled even without the renunciation.³³ The petition was granted against the plaintiff's wishes and the case was annulled. Clearly, reconciliation and not punishment was the objective of the criminal court in cases like these.

While the practice of peace-making as a socially acceptable answer to acts of violence was shared within much of Europe, scholars have argued that it nevertheless may have been at the root of Italy's especially violent society. Looking back on the *antico regime*, Daniele

³⁰ Schwerhoff, 'Social control of violence', 223, 235.

³¹ Rose, Homicide in North Italy, 85-86.

³² ASBo, Torrione, 6670, fasc. 9.

³³ Ibidem, n.p, fol. 7: "Pellegrina Gentili humilmente espone all'curia esser stata querelata nel Torrione da donna Margherita Ferranina, et sua figliola meretrice perche essendo stata ingiuriata, et provocata dalle sud: le dasse con un bastone alcune percosse dalle quali restò pochissimo offesa, et havendogli l'querelatrice più volte fatto addimandargli la renoncia sempre ha ricusato di fargliela, che perciò supp.ca l'curia a farle grazie d'ordinare che le sia cassata detta querella senza detta renoncia."

Boschi pointed to the decisive relationship between the persistent high rates of violence and the late modernisation of the criminal justice system in Italy.³⁴ In particular, he points to the long-standing tradition of judicial indulgence towards interpersonal violence. Throughout the early modern period, he asserts, people accused of non-lethal violent crimes easily managed to avoid at least the most severe forms of punishments thanks to the complex system of judicial pardons and private reconciliations. And although criminal courts all over Italy received several thousand reports each year concerning a wide range of crimes, they effectively only dealt with a very small proportion of these offences. Therefore, until well into the nineteenth century the judicial system only exerted a very moderate deterrent power over violent aggressors. The question of whether the practice of peace-making and pardoning was more commonplace in Italy than elsewhere or whether it is more visible in the extant sources merits further investigation. However, what is certain is that in early modern Italy peace-making was of continued importance to the way interpersonal violence was dealt with all throughout the early modern period.

Lethal violence in Bologna during the seventeenth and eighteenth centuries

In the scholarly debates on the decline of violence, homicide rates have formed the most important evidence to argue for the existence of regional differences in the chronology. Manuel Eisner has been the main driver of the conceptualisation of these large-scale and long-term geographical variations.³⁵ He argued for a largely synchronised decline in violent crime across the Western world, where lethal encounters dropped from anywhere between 20 to 50 per 100,000 inhabitants in late medieval cities to rates below one by the mid-twentieth century.³⁶ England and the Netherlands led the way in this development during the sixteenth century, followed soon after by Scandinavia, Germany, Belgium, Switzerland and France. Italy (representing the 'southern' pattern) on the other hand pursued a different trajectory, with consistently higher rates than those in northern Europe followed by a gradual decline from the early nineteenth century onward.³⁷ A simplified version of Eisner's data – which illustrates Italy's divergent trajectory – is presented in table 14.

³⁴ Boschi, 'Knife fighting in Rome', 150-153, especially 152.

³⁵ For his most recent account, see Eisner, 'From swords to words', 65-134.

³⁶ *Ibidem*, 67.

³⁷ *Ibidem*, 68, 80-81, 84.

While there was thus a clear overall trend of higher mean homicide rates in Italy, a closer look at the data reveals significant variations between cities and time periods.³⁸ For the pre-modern, pre-statistical era Eisner had to rely on discontinuous local estimates from various towns such as Rome, Florence, Venice, Siena, Mantua and Bologna. At least until the middle of the seventeenth century, high and low rates alternated without a distinguishable pattern. In fourteenth-century Florence, for example, the rate of 25.6 homicides per 100,000 inhabitants in 1344-1345 surged to a massive 152 five years later (1350-1352) to drop to 16.4 again a quarter of a decade later (1374-1375).³⁹ Similarly, local estimates for sixteenth-century Rome diverged from 73 in 1560-1562 to 40 in 1571-1573.⁴⁰ Between cities, too, significant variations arise. In the city of Mantua between 1601 and 1605, the mean homicide rate was 31. In Lecco during roughly the same time period (1601 to 1610), the rate was a lower 19.3.⁴¹ However, despite these variations it is important to note that even many of these lower estimates for Italian towns were higher than the mean rates for other parts of Europe throughout the early modern period.

The capriciousness of early modern homicide rates can also be observed in Bologna. Figure 6 displays these rates for the period between 1600 and 1755 collected from the criminal court's indictments. With an average of 27 homicides per 100,000 throughout the century, it shows that – as a whole – the Bolognese saw many killings.⁴² Compared to the average rates of the Netherlands and England, Bologna's homicide rate of 25 at the beginning of the century was already quite high, but this was nothing compared to what was yet to come. In the decades after the outbreak of the bubonic plague in 1630, accompanied by a general dissolution of social order, the rates would surge to 50 in 1652 and to a staggering 106 homicides per 100,000 inhabitants in urban Bologna in 1660.⁴³ A decade later, however, the rates reached near parity again with those from the beginning of the century. With the

³⁸ I would like to express my gratitude to Manuel Eisner for kindly sending me his database (sent on 9 January 2014), in which he has collected and calculated the homicide rates for individual towns.

³⁹ Based on Eisner's database, who gathered this data from A. Zorzi, 'La pena di morte in Italia nel Tardo Medioevo', *Clio & Crimen* 4 (2007) 47-62; A. Zorzi, 'Aspetti e problemi dell'amministrazione della giustizia penale nella repubblica fiorentina I. La transizione dal XIV al XV secolo', *Archivio storico italiano* 145 (1987) 391-453.

⁴⁰ Based on Eisner's database, who gathered this data from Blastenbrei, *Kriminalität in Rom*.

⁴¹ Based on Eisner's database, who gathered this data from M.A. Romani, 'Criminalità e giustizia nel Ducato di Mantova alla fine del cinquecento', *Rivista storica Italiana* 92 (1980) 679-706; N. Perego, *Homini de mala vita. Criminalità e giustizia a Lecco e in terra di Brianza tra cinque e seicento* (Lecco: Oggiono, 2001) 196.

⁴² For fourteenth- and fifteenth-century Bologna, homicide rates ranged from 30 to 80 per 100,000 inhabitants. See T. Dean, 'Eight varieties of homicide. Bologna in the 1340s and 1440s', in T. Dean and K. Lowe (eds.), *Murder in Renaissance Italy* (Cambridge University Press, 2017) 85; S. Rubin Blanshei, 'Homicide in a culture of hatred: Bologna 1352-1420' in T. Dean and K. Lowe (eds.), *Murder in Renaissance Italy* (Cambridge University Press, 2017) 113.

⁴³ Rose, *Homicide in North Italy*, 51, 121, 131.

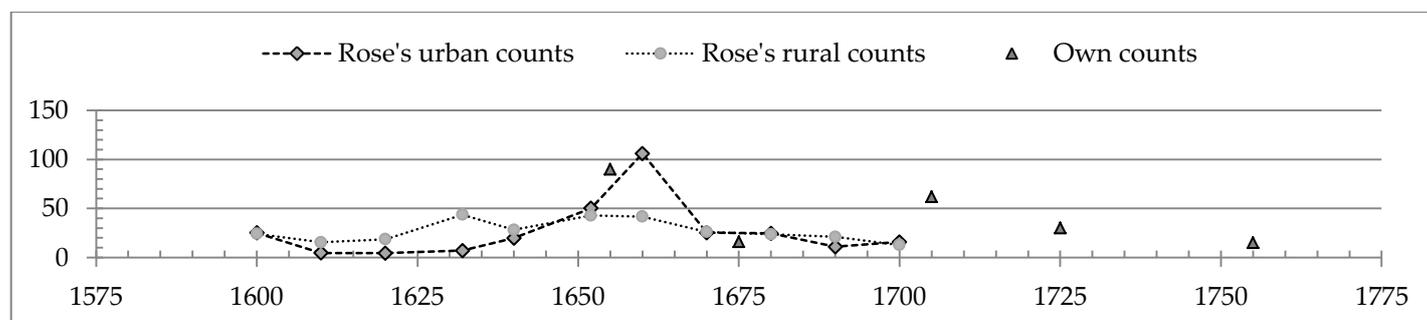
high 1705 data point as an outlier, the post-1770 rates apparently continued the early modern routine, without a sensational deviation from the high rates associated to the ‘southern pattern’.

TABLE 14. MEAN HOMICIDE RATES IN EUROPEAN REGIONS, 1350-1925

	1350-1399	1400-1449	1450-1499	1500-1549	1550-1599	1600-1649	1650-1699	1700-1749	1750-1799	1800-1849	1850-1874	1875-1899	1900-1925
England and Wales	13.0	...	...	...	5.2	5.8	3.5	2.0	1.4	1.6	1.6	1.3	0.8
Netherlands	20.7	59.1	...	35.9	8.9	7.6	3.1	3.4	1.9	...	0.8	0.9	0.6
Germany	30.1	6.6	18.6	...	9.0	10.1	3.1	5.0	4.6	2.4	1.5	1.6	2.1
Italy	71.7	62.0	...	...	38.7	39.1	10.2	16.9	7.1	8.0	7.0	5.7	3.9

Source: table 4 (‘Mean homicide rates in 11 European regions, 1250-2012, by 50-year intervals until 1849, 25-year intervals for 1850-2012’) from M. Eisner, ‘From swords to words. Does macro-level change in self-control predict long-term variation in levels of homicide?’, *Crime and justice* 43 (2014) 80-81.

FIGURE 6. BOLOGNA’S URBAN HOMICIDE RATES BASED ON THE *PROCESSI*, 1600-1755



Sources: Sample 1 (see appendix); C.S. Rose, *Homicide in North Italy: Bologna, 1600-1700* (Unpublished PhD thesis, University of Toronto, 2016) 117-193. Counted as homicides per 100,000 inhabitants.

Aside from the crisis years of the 1630s to the 1660s, lethal violence in Bologna shared many of the same characteristics throughout the seventeenth and eighteenth centuries. The core of these characteristics corresponds with what is known about lethal violence in other early modern towns. The social realm of violent offenders will be treated more extensively in a later paragraph, but it is interesting to briefly point out its most important features. According to Rose, who provides an in-depth study of lethal violence in seventeenth-century Bologna, the Bolognese rarely killed strangers during times of peace.⁴⁴ Instead, homicides took place within the orbit of family and sociability. Artisans, labourers and merchants killed each other, their families, their lovers, friends and neighbours. Their motivations were generally rather ‘prosaic’ or ‘trivial’, revolving around revenge for an insult, romance and escalated robbery as much in the 1600s as it did one and a half centuries later. In about a quarter of the cases killers fought alongside their family members, their co-workers or

⁴⁴ Rose, *Homicide in North Italy*, 119, 141.

faction members, but much of the violence was a solitary affair. The violent encounters that led to the deaths recorded by the *Torrone* generally occurred in the course of daily conflict, a reality that early modern Italians were accustomed to and, indeed, embraced to a certain extent.⁴⁵

Lastly, as is known for lethal violence all over early modern Europe, the demographics of fatal violence in seventeenth- and eighteenth-century Bologna hardly included any women. Indeed, it is generally accepted that men overwhelmingly accounted for the killers and their victims, leading to the characterisation of homicide as “masculine bravado” revolving around “maintaining face, demonstrating character, not wanting to be pushed around, in short the requirement to defend one’s (masculine) honour and reputation.”⁴⁶ Congruent with this dominant image of public male-on-male violence, women were much less frequently prosecuted for homicide and were also relatively uncommon among the reported victims of fatal interpersonal violence. Shares of female offenders in this category of violence range from 30 per cent in Surrey between 1660 and 1800 to about 8 per cent in Amsterdam during the same time period.⁴⁷ A similar, though amplified, image emerges for early modern Bologna. For seventeenth-century Bologna Rose calculated that women made up about 9 per cent of the victims of homicide and a mere 2.5 per cent of killers.⁴⁸ For the period from 1583 to 1779, Angelozzi and Casanova similarly allege that women made up less than five per cent of the indicted killers.⁴⁹ My samples of urban Bologna between the mid-seventeenth and mid-eighteenth centuries concur with these assertions, suggesting that only three per cent of killers identified by the criminal court consisted of women.⁵⁰

That women were only held accountable for a rather small proportion of homicides should not lead us to conclude that women were rarely violent at all. Recent studies have demonstrated that the examination of women’s violence requires a different approach and a

⁴⁵ Ibidem, 132.

⁴⁶ Carroll, ‘Introduction’, 20.

⁴⁷ As offenders in lethal violence, women made up almost 30% in Surrey (1660-1800) when including infanticide, and 13% of offenders of homicide and manslaughter alone. Women furthermore consisted of about 25% in Denbighshire (1660-1730), about one-fifth in seventeenth-century Cheshire, 21% in eighteenth-century Scotland and 8% in Amsterdam between 1650 and 1810. See J.M. Beattie, *Crime and the courts in England, 1660-1800* (Princeton University Press, 1986) 83, 115; Beattie, ‘The criminality of women’, 85; S. Howard, *Crime, communities and authority in early modern Wales: Denbighshire, 1660-1730* (Unpublished PhD thesis University of Wales, 2003) 83; Walker, *Crime, gender and social order*, 109; Kilday, *Women and violent crime*, 43; P. Spierenburg, ‘How violent were women? Court cases in Amsterdam, 1650-1810’, *Crime, history & societies* 1 (1997) 17.

⁴⁸ Rose, *Homicide in North Italy*, 227.

⁴⁹ Angelozzi and Casanova, *Donne criminali*, 84.

⁵⁰ My sample of the urban *processi* from 1655, 1675, 1705, 1725 and 1755 includes a total of 74 homicides resulting in 126 accused offenders. Four of these perpetrators were women.

different set of sources. Rather than being dealt with by the higher courts, women's crimes were more likely to be handled by less formal methods of conflict resolution as well as in lower criminal courts.⁵¹ In recent decades, scholars have contended that focusing on petty violence – like petty criminality in general – helps significantly in arriving at a clearer image of daily tensions in early modern communities as well as early modern men's and women's perceptions and experiences of violence.⁵² It has also been rightfully pointed out that when we look beyond lethal violence and at the lower levels of the criminal justice system, the gendered differences in terms of involvement, severity and setting seem to become much smaller. Anglophone scholarship in particular has made significant headway in showing that the share of women among violent offenders was much higher than what was previously assumed based on lethal violence alone. For example, in the early modern British town of Portsmouth, women account for no less than 31 per cent of registered violent assaults.⁵³ The shares of early modern Rotterdam, Holland, appear to have been similar, as women consisted of twenty-four per cent of the offenders before the correctional court, four times as many as before the higher criminal court.⁵⁴

Further research on women's violence in the early and modern times has moreover brought to the fore other conclusions regarding the supposed intrinsic differences between the violent offences committed by men and women. An important contribution was made by Walker in 2003 who, in her work on local courts in seventeenth-century Cheshire, was one of the first to draw attention to the similarities between men and women's violence.⁵⁵ Contrary to regular assertions that women were much more likely to use verbal abuse to settle disputes, she and others have shown that women by no means limited themselves to such verbal affronts. Taking into account the much more common so-called 'petty violence', it is argued that women in fact fought in ways that in terms of aggression were much more similar to men's than different, that they engaged in violence for a wider variety of motives outside of their sexual honour, and furthermore often did so in the same public areas.⁵⁶ The use of sources gathered beyond the higher criminal courts has been crucial in developing these insights. After all it was these lower, local courts through which many more people

⁵¹ Schwerhoff, *Köln im Kreuzverhör*; Shoemaker, *Prosecution and punishment*, 292; King, *Crime and law*, 202-210; Gray, *Crime, prosecutions and social relations*, 9, 170-171; Dinges, 'The uses of justice', 159-175.

⁵² Hurl-Eamon, *Gender and petty violence*, 11; Jones, *Gender and petty crime*, 8.

⁵³ J. Warner, J. Riviere and K. Graham, 'Women behaving badly. Gender and aggression in a military town, 1653-1781', *Sex roles* 52 (2005) 290.

⁵⁴ Van der Heijden, 'Women, violence and urban Justice', 84.

⁵⁵ Walker, *Crime, gender and social Order*, 270.

⁵⁶ Kilday, *Women and violent Crime*; Hurl-Eamon, *Gender and Petty Violence*; Ruitenbeek, 'Niet zonder kleerscheuren', 62-85; Van der Heijden, 'Women, violence and urban Justice', 90.

experienced the law, since petty crime was far more typical and common than felonies among both men and women.⁵⁷ The same holds true for early modern Bologna's female offenders. Although lethal violence was largely an all-male affair before Bologna's early modern criminal court, the examination of other forms of violence bring a much more significant group of deviant female protagonists into view.

Insults and the politics of daily life

In the historiography on women's criminality, much attention has been paid to women's involvement in verbal abuse. Although recent works have largely examined scolding and defamation from the perspective of women's agency and the responses to them, the topic has also been associated with normative connotations regarding women's presumed weakness and passivity.⁵⁸ One of the assumed outcomes of the strict, early modern gender norms and the ethics of honour was that women did not commonly partake in the physical violence omnipresent in early modern Italy, but instead relied to a much greater extent on insults and defamatory slurs as the primary means of conducting the small politics of daily life.⁵⁹

Although such notions were shared across early modern Europe, the perception of the enduring importance of an honour culture in Italian communities has led scholars to believe that the gender norms were especially restrictive there. This meant that while for men retributive violence was a culturally accepted and sometimes even demanded means to maintain one's honour, this was not the case for women. John Brackett, in his work on criminal justice in Renaissance Florence, has argued that for women it was neither 'expected nor desirable' to engage in aggressive acts for any reason.⁶⁰ The ethics of honour prescribed passivity for women, submitting them to the control of men and relying on men to defend women's honour. According to Brackett and others, women furthermore had fewer economic and political opportunities outside of the house and thus were less likely to violate the law.⁶¹ The combination of this normative notion and ideas regarding women's physical weakness resulted in an understanding of women's violence as being largely restricted to verbal violence. Indeed, as Elisabeth Crouzet-Pavan summarises, a specific function was

⁵⁷ Jones, *Gender and petty crime*, 8

⁵⁸ L. Gowing, 'Gender and the language of insult in early modern London', *History workshop journal* 35 (1993) 1-21.

⁵⁹ S.T. Strocchia, 'Gender and the rites of honour in Italian Renaissance cities', in: J.C. Brown and R.C. Davis (eds.), *Gender and society in Renaissance Italy* (London: Longman, 1998) 52-54.

⁶⁰ Brackett, *Criminal justice and crime*, 133-134.

⁶¹ *Ibidem*; L. Martines, 'A way of looking at women in Renaissance Florence', *Journal of medieval and renaissance studies* 1 (1974) 15-28.

reserved to women: to assist at violent scenes with their voices and gestures.⁶² Indeed, based on his research on medieval Todi, Daniel Lesnick has argued that the ritualised vocabulary of vilification – aimed at influencing friends, neighbours or relatives in the community – was a distinctly female form of crime.⁶³ In a highly patriarchal culture, insults and gossip gave women of all social classes an informal but major means of influencing and shaping public opinion.

When examining women's deviant speech, much attention has been paid to its gendered vocabulary. When placing insults in their social and cultural context, Peter Burke described insults both as a breach of the rules, but also as a category that followed the rules or conventions "as closely as a sonnet."⁶⁴ Indeed, in early modern Italy the lexicon of insults drew from a "stereotyped, gender-loaded stockpile of invective which both women and men adapted creatively, according to the needs of the situation."⁶⁵ Defamatory speech therefore also followed gendered conventions and value systems. Studies on medieval Todi and late medieval Bologna by Lesnick and Dean largely confirm the gendering of deviant speech. Insults to women particularly emphasise sexual components of their reputation, impugning her as some variant of a whore, adulteress or procuress.⁶⁶ Men were also called 'bastard' or 'cuckold', but it is clear that these sexual insults were female-centred.⁶⁷ They either berate women for not adhering to sexual mores or accuse men of being the product or victim of women's illicit sexual relations. Invectives for men on the other hand are more economic in nature and largely refer to their honesty or ability to carry out a profession.⁶⁸ The men in medieval Todi were often called liars and thieves, accusations that undermined their economic credibility and called into question their success and stature as merchants, tradesmen, artisans or labourers. These conclusions mirror those drawn for other medieval and early modern societies.⁶⁹

⁶² Crouzet-Pavan, 'Crimine e giustizia', 57.

⁶³ Strocchia, 'Gender and the rites of honour', 54; D.R. Lesnick, 'Insults and threats in medieval Todi', *Journal of medieval history* 17 (1991) 76.

⁶⁴ P. Burke, *The historical anthropology of early modern Italy* (Cambridge University Press, 1987) 96.

⁶⁵ Strocchia, 'Gender and the rites of honour', 54.

⁶⁶ Dean, 'Gender and insult', 231; D.R. Lesnick, 'Insults and threats in medieval Todi', *Journal of medieval history* 17 (1991) 71.

⁶⁷ Strocchia, 'Gender and the rites of honour', 54

⁶⁸ Dean, 'Gender and insult', 219; Lesnick, 'Insults and threats', 71.

⁶⁹ It must be noted that the historiography since the late 1990s has emphasised that while the repertoire of insults centred on women's sexuality, women's honour and reputation were more complex and less restricted. See F. Dabhoiwala, 'The construction of honour, reputation and status in late seventeenth- and early eighteenth century England', *Transactions of the Royal Historical Society* 6 (1996) 202; G. Walker, 'Expanding the boundaries of female honour in early modern England', *Transactions of the Royal Historical Society* 6 (1996) 235; S.K. Taylor, 'Women, honor, and violence in a Castilian town, 1600-1650', *The sixteenth century journal* 35:4 (2004) 1083-1084.

The early modern Bolognese court records also support this notion of a highly gendered vocabulary of verbal aggression. Like elsewhere, slurs on women nearly always referred to their sexual honour and, as Angelozzi and Casanova noted, often concerned a substantial subordination to the dominant masculine cultural model: *puttana* (whore), *buzzerona* (a woman dedicated to sodomite practices), *sfondata* (worn out), *porca* (sow), *vacca* (cow) and *ruffiana* (pimp) were the most common abuses used for women.⁷⁰ Some common insults for men indeed also centre on their affiliation with women who failed to adhere to the sexual mores. *Becco* and *becco fottuto* (cuckold, fucking cuckold) are among the most prominent and frequently recorded verbal affronts. Additionally though, men were also insulted with other, more 'economic' aspects of their their good or bad reputation: *ladro* (thief), *barone* (scoundrel), *birichino* (rascal), *poltrone* (good-for-nothing), *guidone* (scumbag) and *furbo* (crook). While there are some examples of women being called a *poltrona* or a *barona*, this was rare. In general, in line with what Dean found for the late medieval period, Angelozzi and Casanova have remarked that the vocabulary of affront was less varied and more repetitive when directed at women than the insults directed at men.⁷¹

It has been suggested that part of the reason for the 'semantic poverty' of insults towards women may be found in the notaries' and authorities' prosecutorial indifference.⁷² Whether or to what extent this disregard was gender specific is difficult to say, but the criminal court records support the idea that these insults were generally not a large priority for the authorities. Firstly, many of the court records merely mention the exchange of 'injurious words' (*parole ingiuriose*), 'dishonest words', 'impolitenesses' (*villanie*) or 'insolent remarks' (*insolenze*), without specifying what the words used were exactly. When specific slurs were jotted down by the notaries, it was rather imprecise and summary, with some examples of slurs followed by 'and other similar ones' (*ed altre simile*).

Indeed, that much of the verbal aggression that appeared before the criminal court was not scrutinised in depth was part of a broader disinterest in prosecuting the petty violent acts of the lower classes. While the defamation of a superior was taken very seriously by the authorities, verbal aggression among the commoners who made up the bulk of the plaintiffs before the court was not.⁷³ The *Torrone's* statutes, which specifically instructed the judges not to pursue so-called 'minor crimes' such as insults, threats and non-life-threatening

⁷⁰ Angelozzi and Casanova, *Donne criminali*, 74.

⁷¹ Dean, 'Gender and insult', 226; Angelozzi and Casanova, *Donne criminali*, 75.

⁷² Angelozzi and Casanova, *Donne criminali*, 75.

⁷³ Burke, *The historical anthropology of early modern Italy*, 99.

fights among the lower classes, are insightful in this regard.⁷⁴ That the majority of these affronts would not be prosecuted in an inquisitorial trial may have influenced the way in which notaries documented the denunciations. Although the evidence to prove this is lacking, it does not seem unlikely that these mechanisms were exacerbated for women, whose violent acts in general are believed to have been taken less seriously than men's due to their assumed weaker nature.

Recent scholarship has begun demonstrating that while women's relationship with violence was thus normatively problematic, their violence cannot be reduced to verbal aggression alone. Firstly, studies on early modern England, Scotland, France, Holland and, recently, Italy have shown that petty physical acts of violence may have been much more commonplace than has been believed.⁷⁵ These works, often based on examinations of lower criminal courts, reveal that women by no means limited themselves to the exchange of words in their everyday conflicts, but also commonly resorted to physical violence. In fact, the Bolognese court records proportionally brim with women's physical altercations, the share of insults was more modest. This argument will be treated more elaborately later on in this chapter. Of course, criminal records of verbal assaults that were litigated in court only represent a small fraction of the conflicts that occurred at the most basic levels of everyday life. Many physical assaults also mention the exchange of injurious words, even though these cases do not revolve around them. However, what is important now is noting that insults did not form the most important crime category for women in early modern Bologna: only one-fifth of the female offenders were accused of insults or other forms of verbal aggression.⁷⁶

Secondly, while some scholars have characterised verbal aggression as the 'female crime' *par excellence*, insults were by no means a women's preserve. For pre-modern Italy, it was Daniel Lesnick's examination of thirteenth-century Todi that framed deviant speech as a 'particularly female form of crime'.⁷⁷ He made this argument based on women's relative 'overrepresentation' among those convicted of verbal insults or threats compared to other prominent crimes: between 1275 and 1280 women constituted 27.5 per cent of those

⁷⁴ Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 391.

⁷⁵ Hurl-Eamon, *Gender and petty violence*; Kilday, *Women and violent crime*; Van der Heijden, *Women and crime*; D. Roussel, 'La description des violences féminines dans les archives criminelles au XVI^e siècle', *Tracés. Revue de Sciences humaines* 19 (2010) 71.

⁷⁶ Counted in the denunciations, where the judicial filter was arguably the smallest. Among the 241 female offenders in the denunciations collected, 46 were accused of insults, threats or other forms of verbal aggression. For men the percentage was 15%.

⁷⁷ Lesnick, 'Insults and threats', 76.

convicted of verbal aggression compared to seven per cent for theft and five-and-a-half per cent for physical assault.⁷⁸ However, as these figures make clear, men also resorted to deviant speech in large numbers. Calling insults a distinctly 'female crime' thus obscures the degree to which experiences and deviant acts were shared among men and women. In early modern Bologna, women formed 20.4% of those accused of insults and threats between 1650 and 1750.⁷⁹ This was roughly comparable to the average, overall share of women's involvement in recorded crime of about 21%. This does not deny that defamatory speech was a powerful tool for women to negotiate power in their everyday lives, but instead that these mechanisms were not exclusive to them.

There are reasons to believe that verbal aggression by men and women differed less in its function than in the way it was received. While the court records certainly attest to women's ability and audacity in violently confronting their male and female adversaries for a wide range of socio-economic motives, women, unlike men, had little honour to gain from it. Although behaving in an aggressive manner was by no means an uncommon mode of behaviour for women, the court testimonies reveal that it was nonetheless considered 'unladylike' comportment that was explicitly frowned upon by contemporaries.⁸⁰ By acting aggressively, women disrupted the social order both in a practical sense, as well as normatively by defying their prescribed gender roles.

From the perspective of popular culture, another way in which women subverted the social order in relation to deviant speech (as well as other forms of aggression) was – ironically – through their use of the criminal courts. As mentioned before, the authorities did not consider insults or acts of petty violence among the lower classes a high prosecutorial priority. As elsewhere in early modern Europe, these petty offences were treated very much as a civil rather than a criminal matter, focusing on arbitration and compensation rather than punishment and reform.⁸¹ Rather than being subject to an inquisitorial trial, by far the majority of these cases are known to us now because the victims of aggression used the court as a forum for conflict resolution.

Consequently, many of the criminal court records surrounding insults – like those for physical violence – should be understood from this perspective of conflict resolution, in

⁷⁸ Ibidem, 76.

⁷⁹ In the sample, 53 out of 260 defendants accused of insults, defamation or threats were women.

⁸⁰ Cohen, 'Honor and gender in the streets of early modern Rome', 616; Brackett, *Criminal justice and crime*, 133-134.

⁸¹ Gray, 'The regulation of violence in the metropolis', 75-77; King, 'The summary courts and social relations', 147-150.

which commoners employed the criminal court to conduct the small politics of their everyday lives. Some scholars of early modern Italy have argued that taking conflicts to the judicial authorities may have been particularly appealing to those with a marginal position in society. In her examination of the scorning of prostitute's houses in sixteenth-century Rome, Elizabeth Cohen asserts that while established householders might resolve attacks on honour through other routes, prostitutes found in the criminal tribunal a "public and socially sanctioned forum in which to air their grievances and, within the conventions of honour culture, to spread shame on their attackers."⁸²

Marginality was however not necessarily characteristic for the social profile of offenders and plaintiffs that came before early modern Italian criminal courts.⁸³ This was true for insults as well as for violent behaviour in general. While there is some evidence that by the early twentieth century violence in Italian towns had become more closely connected with a milieu of poor and marginal 'criminals', there is little evidence that the early moderners belonged to a particularly disreputable segment of the urban lower classes.⁸⁴ Instead, during the early modern period, both the plaintiffs and defendants of aggressive verbal or physical behaviour by and large belonged to the group of 'regular' labourers or small-time artisans who had been unable to settle the often long-term disputes they faced within their quotidian social environment.

This use of the courts brings to light various important observations. Firstly, it suggests a more diverse notion of the functioning of the criminal justice system in relation to insults and other forms of petty violence in early modern communities. It shows that the lines traditionally drawn between the older system of communal justice – in which shaming was an important means of controlling behaviour that broke the rules of community – and 'a more modern' model of hegemonic justice in which the repression of deviant behaviour was increasingly taken over by the state, were blurred during the early modern period.⁸⁵ Older practices clearly continued in new institutions. Secondly, while litigious victims of insult and

⁸² Cohen, 'Honor and gender in the streets of early modern Rome', 624.

⁸³ Recent literature casts doubt on the characterisation of prostitutes in early modern Italian towns as outsiders. Instead of social outcasts, there is a growing body of evidence that suggests that prostitutes were in fact very much part of the fabric of society. On the other hand, Robert Davis has called their position 'protected marginality', in which prostitutes were indeed deemed marginal but enjoyed a certain protection in society. See McCarthy, *Prostitution, community and civic regulation*, 165-211; Cohen, 'Seen and known', 392-409; Davis, 'Say it with stones', 114.

⁸⁴ Daniele Boschi demonstrates that the proportion of those who had been gaoled at least once before committing homicide rose significantly between 1845-6 and 1905-6. He however also suggests that this may have been due to the criminal justice system becoming more efficient, Boschi, 'Knife fighting in Rome', 145.

⁸⁵ Burke, *The historical anthropology of early modern Italy*, 103.

other affronts turned to the court, what they expected of the law was not state intervention per se. This was true for verbal as much as physical forms of aggression. Many of the Bolognese men and women turned to the authorities as the result of long-term daily insults they suffered from neighbours. Unable to settle these conflicts by themselves, they appealed to the authorities to be able to use the pressure of an official criminal denunciation to renegotiate power within their communities.

Interestingly, while recourse to the criminal court may have enhanced one's social bargaining power, at a broader social level taking such action was also frowned upon in early modern Italian towns. This was not only reflected in the aforementioned disgruntled responses by defendants, but the political dimension was also in a tangible way incorporated into the vocabulary of verbal assault. There is evidence for both early modern Bologna and Rome that the corpus of insults was complemented with invectives of 'traitor' and, above all, 'spy' (*spia*).⁸⁶ In a broad sense, 'spy' was a serious insult because it conjured up associations with the inquisition and oppressive social control.⁸⁷ Locally, within the Papal States, the insult furthermore specifically alleged a perceived deceitful collusion with the 'operators of justice'; represented in Bologna by the *Torrone* and its *shirri*. Of course, local officials or others working directly for the authorities formed the most obvious target of these slurs. The denunciation by Stefano a Porta, a local bailiff of the *via nuova* in Bologna's inner-mural parish of San Giorgio, from the early 1650s is illustrative in this regard. While investigating a brawl that had taken place in his district, he encountered Giovanni Monti, a day labourer, who upon being questioned started to call him a "fucking cuckold spy and a thief who was a spy as his profession."⁸⁸

But this particular kind of slander extended beyond these actual officials to the wide range of ordinary labourers (textile workers, cobblers, tanners and so on) who took recourse to the law. In the collected court records it appears to have been men who were the usual recipients of this specific form of verbal aggression, but there is ample evidence that the contempt for cooperating with the criminal court and its lot was shared equally by men and women of all social classes.⁸⁹ In 1723, for example, Angela Monti accused her neighbour

⁸⁶ Cohen and Cohen, *Words and deeds*, 159-187; Angelozzi and Casanova, *Donne criminali*, 76.

⁸⁷ Rose, *Homicide in North Italy*, 214.

⁸⁸ ASBo, Torrone, 6609, fasc. 142. "[...] et esso subito mi ha ingiuriato di parole dicendome spia becca fotuta, ladro, dicendome inoltre ch'io vada a fare la spia, ch'è mio mestiere"

⁸⁹ Angelozzi and Casanova, *Donne criminali*, 76.

Maria, wife of Giovanni Berti, of having been a spy (*fare la spia*) after having her incarcerated for an insult.⁹⁰

The contempt for taking recourse to the law can be attributed to a combination of cultural and political factors. Firstly, the traditional Italian honour culture precluded the use of the courts. According to the so-called *scienza cavalleresca*, i.e. the laws of honour which governed gentlemanly conduct first codified in the 1550s but still widely discussed in eighteenth-century Italy, a man of honour was required to punish offences without recourse to the law because a true gentleman demanded satisfaction for himself rather than punishment by a third party.⁹¹ Even though these codes formally only pertained to the honour of gentlemen, there were broader social and political tensions that made both conceptions of honour and using the law a contested affair for men and women of all social standings.

Indeed, secondly, the new regimes that emerged in Italy during the first half of the sixteenth century lacked legitimacy and struggled to collaborate with local elites.⁹² Following the 1506 conquest of Bologna by Pope Julius II and the expulsion of the Bentivoglio oligarchs, Bologna was governed by a mixed government (*governo misto*) under which the papal legate – the cardinal installed by the Pope as city governor – worked in cooperation with the civic Bolognese Senate. Rule by priests was widely resented, however, and in the eyes of parts of the population the Pope (and thus the Papal government) represented a foreign despot.⁹³ Because criminal law was in the hands of a papal delegate, involving a ‘foreign body’ rather than resolving conflicts informally was commonly regarded a deplorable ‘collaboration’ with a power external to the community. Recourse to the law was thus both very efficient particularly because of this external leverage, but also, ultimately, reprehensible. While the continued use of *spia* and *fare la spia* as insults throughout the eighteenth century suggest that the contempt was deep seated, the use of law courts by those seeking to resolve disputes over insults and other forms of petty aggression did increase, despite the potential for shameful disclosure inherent in such a move.⁹⁴

⁹⁰ ASBo, Torrone, 7869-1, fasc. 163. “Sopradetta Angela mi va perseguitando con strapazzarmi sempre con parole ingiuriose, et essendo stata ultimamente carcerata in Vescovato, hieri sera fù scarcerata, et immediatamente si portò a ritrovarme in mia casa, e mi ha cominciato a strapazzare con parole ingiuriose trattandomi da puttana con dire, che io ero stata causa che lui era stata carcerata, perche gl’havevo fatta la spia.”

⁹¹ Carroll, ‘Revenge and reconciliation’, 102, 113.

⁹² Ibidem, 106.

⁹³ G. Angelozzi and C. Casanova, ‘Il tribunale criminale di Bologna’ in M. Cavina (ed.), *La giustizia criminale nell’Italia moderna (XVI-XVIII sec.)* (Bologna: Pàtron Editore, 2012) 252-253.

⁹⁴ Strocchia, ‘Gender and the rites of honour’, 59.

The importance of petty physical violence

Aside from verbal aggression, petty physical violence is increasingly recognised as a regular feature of women's everyday life in the early modern period. Just how regular this violence was and what this represents in comparison to the figures of other regions is difficult to ascertain due to the differences in source material as well as contemporary classifications. Much of the recent research on women's violence in towns in northern Europe has emphasised women's relatively high shares among petty violence.⁹⁵ Examining women's physical violence prosecuted by Rotterdam's (lower) court of correction during the first half of the eighteenth century, Manon van der Heijden argued that women's share among 'fighting' (the least serious category of physical violence she distinguishes) was 42 per cent.⁹⁶ This rate was significantly higher than those before the regular criminal courts in Rotterdam and Amsterdam, which amounted to around 6 per cent. Studies on sixteenth- and eighteenth-century Paris suggest that women's proportional share as offenders of petty violence ranged between five and 17 per cent.⁹⁷ A broader definition of petty violence is used in the scholarship on assault on England, which includes threatening gestures and words alongside physical violence.⁹⁸ In his examination of the prosecution of assault before two summary courts in London between 1784 and 1796, Drew Gray demonstrates that 31 per cent of those accused of assault were female.⁹⁹

Depending on the definition of violence used, the Bolognese criminal court records also produced higher shares of women's involvement for petty violence. Measuring solely denunciations of petty physical violence, women made up about 21 per cent of all petty violent offenders. A categorisation closer to that of 'assault' results in women comprising 26 per cent of the total number of offenders between 1655 and 1755.¹⁰⁰ Among the five incomplete sample years (1655, 1675, 1705, 1725 and 1755) this share fluctuated between 13 per cent and 39 per cent though a clear pattern is not discernible.

⁹⁵ Hurl-Eamon, *Gender and petty violence*; Kilday, *Women and violent crime*; Van der Heijden, *Women and crime*; Walker, *Crime, gender and social order*, 25.

⁹⁶ The average share of women accused of the broad category of violence (including fighting with another person and the destruction of property and belongings) prosecuted by Rotterdam's correctional court was 24%. See Van der Heijden, 'Women, violence and urban justice', 84.

⁹⁷ A. Farge and A. Zysberg, 'Les théâtres de la violence à Paris au XVIIIe siècle', *Annales. Économies, sociétés, civilisations* 34:5 (1979) 986; Roussel, 'La description des violences féminines', 71.

⁹⁸ Gray, 'The regulation of violence in the metropolis', 78.

⁹⁹ Deduced from table 5.4 based on the minute books of the Guildhall and Mansion House justice rooms in Gray, *Crime, prosecution and social relations*, 108.

¹⁰⁰ In the Bolognese case this would include the categories of physical violence not resulting in life-endangering wounds, threats and other forms of verbal aggression as well as the recordings of *preceppi* issued for a range of undefined physical or verbal acts of violence.

Early modern European women's involvement in petty violence has also been quantified based on particular judicial procedures that bound people to keep the peace through sureties or conditional fines. Similar to the broad English definition of assault, these measures were used for a range of acts of physical and verbal aggression. Studying London's recognizances between 1680 and 1720, Jennine Hurl-Eamon describes female assailants making up one-third of the total.¹⁰¹ For Scotland between 1750 and 1815, Anne-Marie Kilday has calculated that 41 per cent of the so-called 'Letters of Lawburrows' were brought and granted against women.¹⁰² It has been argued both for England and Scotland that these measures were preferred by those seeking redress for assault particularly when the assailant was a woman.¹⁰³ The accessibility, efficiency and effectiveness as well as the low costs associated with this form of prosecution may well have contributed to the popularity of this judicial procedure among early modern women. As I have argued earlier, the seventeenth- and eighteenth-century Bolognese peace injunctions functioned in a similar way to these English and Scottish measures and produce strikingly similar figures. In Bologna, women accused of petty physical or verbal aggression consisted of 44 per cent of the offenders who were made to promise not to injure or harm the other person again.

Further evidence that speaks to the importance of petty violence in Italian women's everyday lives is presented by the proportional share of petty violence among reported crimes. Studies on Italian towns during the Renaissance and early modern period have demonstrated the continuous high share of primarily petty violence among women's (and men's) recorded crimes. This was in marked contrast to most Northern European towns, where property crime was generally regarded as the most prominent crime category, and was furthermore true for both men and women. Indeed, in fourteenth- and fifteenth-century Florence between a quarter and half of all urban female offenders were brought before the court for assault and battery.¹⁰⁴ Non-lethal violence was also the most common crime that brought men and women before Viterbo's fifteenth-century podestarial court.¹⁰⁵ This observation is echoed by the few examinations of later periods. In sixteenth- and seventeenth-century Rome, the largest proportion of deviant behaviour by women who

¹⁰¹ Hurl-Eamon, *Gender and petty violence*, 67.

¹⁰² Kilday, *Women and violent crime*, 94.

¹⁰³ Hurl-Eamon, *Gender and petty violence*, 130; Kilday, *Women and violent crime*, 94; Shoemaker, *Prosecution and punishment*, 207.

¹⁰⁴ Cohn, 'Women in the streets, women in the courts', 26.

¹⁰⁵ Rizzo, 'Donne e criminalità', 13.

appeared before the Governor's criminal court concerned brawls and other forms of petty violence.¹⁰⁶

In early modern Bologna, the denunciations for petty violence also filled the notaries' case books, much more so than lethal violence or verbal aggression. As in other Italian towns, petty violence constituted a significant share of the crimes reported to the criminal court in Bologna: among the denunciations, nearly 80 per cent of all female and over 58 per cent of all male offenders had been accused of non-fatal, physical violence without life-endangering wounds (see table 15). Significantly more so than verbal affronts or homicide, petty physical altercations formed the largest cause for *bolognesi's* encounters with the law.

TABLE 15. RELATIVE IMPORTANCE OF VIOLENCE AMONG DENUNCIATIONS AND <i>PROCESSI</i> , CA. 1655-1755				
	Female defendants		Male defendants	
	Denunciations (N=241)	<i>Processi</i> (N=70)	Denunciations (N=903)	<i>Processi</i> (N=1287)
Lethal violence	-	6%	1%	9%
Physical violence with danger to life	2%	13%	7%	19%
Physical violence without danger to life ^a	34%	10%	34%	9%
Verbal aggression ^b	19%	4%	15%	7%
Undefined violence (<i>precetto</i>) ^b	26%	4%	10%	1%
Other crime categories	18%	63%	33%	55%
Total	100%	100%	100%	100%

Source: Sample 1 and 2 combined (see appendix), counted by defendant.
^a 'Petty physical violence'
^b 'Petty violence' in its broadest sense includes the categories of petty physical violence, verbal aggression and the undefined violence.

While the books recording the denunciations brimmed with instances of petty violence, these brawls and assaults were prosecuted to a much smaller degree. This is clearly visible in the diverging shares of the different crime categories during the criminal court process as demonstrated in table 15. While the denunciation books were full of such cases, non-lethal physical violence among the lower classes very rarely led to the start of an inquisitorial trial. Indeed, as elsewhere in early modern Europe, non-fatal attacks were largely considered too insignificant to prosecute by criminal courts.¹⁰⁷ That the *Torrone's* statutes specifically instructed its judges not to pursue so-called 'minor crimes' such as

¹⁰⁶ C. Vasta, 'Per una topografia della violenza femminile (Roma, secoli XVI-XVII)', *Genesis* 14:2 (2015) 67.

¹⁰⁷ Hurl-Eamon, *Gender and petty violence*, 3;

insults, threats and non-life-threatening fights among the lower classes, is a telling example of this attitude.¹⁰⁸

This does not mean, however, that violence was condoned or ignored, even if it was 'petty' in character. It is generally known that communities in early modern Europe did their best to maintain law and order through a range of formal and informal sanctions.¹⁰⁹ Both the authorities' active encouragement of peace-making among its plaintiffs and defendants as well as the stream of by-laws issued concerning weapon regulations underscore this point.¹¹⁰ For those men and women who came to the court, too, the insistence on pressing charges reveals a popular concern over petty violence.¹¹¹ This notion is supported by the prevalent appeal to and summary issuing of the aforementioned peace injunctions for petty violence. If the denunciations are evidence of popular perceptions of misbehaviour, the prevalent female violence was clearly considered an unwelcome aggression deemed worth denouncing to the court.

Severity and weapons

Recognising that women were considered capable of a significant degree of violence and that both men and women used violence as a tool, the scholarship from the past decade has commenced re-evaluating the relationship between gender and violence. Recently various scholars have argued that petty violent offences were, in many ways, 'not sex-specific' or even 'ungendered'.¹¹² Factors that contributed to this assessment were the words chosen to describe violence in the depositions, as well as, importantly, their form and seriousness. As elsewhere in early modern and modern Europe, Bolognese men assaulted in greater numbers than women according to the criminal court records, but when women did commit an assault there were many similarities to be found.

Although both men and women were capable of inflicting serious damage, it is the relative 'pettiness' that may be the most typical aspect of both women's and men's violence. The pettiness that characterises most violence by men and women related both to the causes of the altercation as well as the physical repercussions. The denunciation against barber

¹⁰⁸ Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 391.

¹⁰⁹ Dinges, 'The uses of justice', 159-175; Kilday, *Women and violent crime*, 93.

¹¹⁰ Rose, 'Homicide in North Italy', 85-86.

¹¹¹ Hurl-Eamon, *Gender and petty violence*, 4; J.M. Beattie, 'Violence and Society in Early Modern England' in A.N. Doob and E.L. Greenspan (eds.), *Perspectives in criminal Law: Essays in honour of John L. J. Edwards* (Aurora: Canada Law Book, 1984) 42.

¹¹² Hurl-Eamon, *Gender and petty violence*, 3, 66, 70, 88; J. Turner, 'Summary justice for women. Stafford Borough, 1880-1905', *Crime, history & societies* 16:2 (2012) 55.

Antonio Leli on 19 August 1705 is typical in this regard.¹¹³ When the two men passed one another on the street, Antonio bumped into plaintiff Gio Batta Spinelli which led Gio Batta to fall on the ground and soil his hand. He disgruntledly showed his now dirty hand to Antonio and asked if he wanted to be soiled as well, after which Antonio gave him two blows with his barber scissors. According to Gio Batta this wounded him in his right shoulder and left arm, wounds that the court officials would have been able to see at the time of the denunciation a day later if he “had not had himself medicated.” The records indeed note *vulneribus minime*. A similar situation is found some twenty-odd years later, when Anna Vandoni’s tenants were yelling at each other all night and she asked them if they were not ashamed of all the obscene words that came out of their mouths.¹¹⁴ Anna Marchesini, one of these tenants, responded by throwing a foot stove in her face, even though she admitted the wounds could not be seen when she made the denunciation one day later. These cases are typical of the severity of most of the violence by both male and female offenders, leading only to minimal or no visible physical wounds at all.

Several recent studies have opposed various stereotypical gender differences with regard to how men and women in the past fought. In her important work on crime and gender in seventeenth-century Cheshire, Walker explicitly dismisses both the stereotypical notion of women’s violence as a modern ‘catfight’ involving “a few scratches, a slap in the face, or pulling hair” and the association of weapons with distinctly masculine combat as somewhat anachronistic.¹¹⁵ She instead found that male and female defendants, as proportions of the total number of defendants of their own sex, were equally likely (just over 40 per cent of the total) to be prosecuted for armed assault. Percentages for other regions and time periods diverge. In eighteenth-century Rotterdam, only a quarter of the male defendants are reported to have used a weapon compared to ten per cent of the women.¹¹⁶ Moreover, percentages as low as four per cent (for female defendants) to seven per cent (for

¹¹³ ASBo, Torrone, 7608-1, fol. 76.

¹¹⁴ ASBo, Torrone, 7869-1, fol. 19. “Hieri sera all’ave maria senti che le sopradette gridavano con Lucia Giordani pigionante nella loro casa a causa che tutta notte andava delle gente su per le scale della medema, il che sentita da me, dissi, che vera non era vergogna per le gran parole oscene [... e]n che pertanto le medeme tutte uscite mi cominciorono a strappazzare con parole ingiuriose e la sopradetto Anna mi tiro lo scaldino, che haveva in mano, e mi ferì nella fronte, la qual ferita VS non puol vedere, atteso i medicamenti”.

¹¹⁵ Walker, G., *Crime, gender and social order in early modern England* (Cambridge University Press, 2003) 77-78. Walker here quotes Spierenburg, P., ‘How violent were women? Court cases in Amsterdam, 1650-1810’, *Crime, histoire & sociétés* 1 (1997) 10. Also insisting that women were usually unarmed is Amussen, S., “‘Being stirred to much unquietness’: Violence and domestic violence in early modern England’, *Journal of women’s history* 6:2 (1994) 75.

¹¹⁶ Heijden, M. van der, ‘Women, violence and urban justice in Holland, 1600-1838’, *Crime, History & Societies* 17:2 (2013) 88.

male defendants) have been found for seventeenth- and eighteenth-century London.¹¹⁷ In seventeenth- and eighteenth-century Portsmouth, 16 per cent of the male offenders of physical assault and 15 per cent of the women used weapons.¹¹⁸

In early modern Bologna, using weapons in physical violence appears to have been more commonplace than in most of the aforementioned Northern European towns. Nearly one-third of the female and 60 per cent of the male defendants were reported to have used a weapon in their affront. The available data is too scarce and above all too disparate for conclusive conclusions to be drawn, but a tentative case can be made for weapons being so prevalent in Southern European towns like Bologna due to the prevailing culture of violence. Examinations of violence in other Southern European towns in Italy and France have pointed to variable but generally high rates of weaponry use in physical violence, and some scholars have also noted early modern Italians' particular "comfort with violence and a familiarity with weaponry that pervaded all levels of society."¹¹⁹ On the other hand, others argued that scholarship has commonly overlooked the proactive enforcement of weapon-possession laws in Italian towns like Bologna. Gregory Roberts recently argued that the strict regulation of the right to bear arms through police patrols and a government licensing regime from the mid-thirteenth century onwards "resulted in the arrest, trial, and conviction of scores of men, including political elites, each year."¹²⁰ Bologna's citizen legislators attempt to suppress interpersonal violence through the active policing of arms-bearing may thus also play an important role in explaining the prevalence of weapons mentioned in the criminal court records.

While it has thus been disproven that women invariably used only their bodies rather than weapons with which to offend an adversary, many scholars have observed clear gender differences in the types of weapons that were used. Among weaponry types, swords and firearms are the most notable and distinctly gendered, as they were nearly exclusively used by men.¹²¹ This was also the case in Bologna. Swords and other long-bladed weapons were not just the particular preserve of men, but of nobles and their retainers. As elsewhere in early modern Europe, the right to bear these kinds of arms was reserved for the nobility of

¹¹⁷ Hurl-Eamon, J., *Gender and petty violence in London, 1680-1720* (Columbus: Ohio State Press, 2005) 73.

¹¹⁸ See table 1 in Warner, J., Riviere, J. and Graham, K., 'Women behaving badly. Gender and aggression in a military town, 1653-1781', *Sex roles* 52 (2005) 294.

¹¹⁹ Peter Blastenbrei notes that between 1561 and 1584, no fewer than 42.5% of the cases were committed with arms. For the *Sénechaussées* of Libourne and Bazas (southern France) between 1696 and 1789, Julius Ruff notes weapon use in a staggering 63.3% of the homicide and physical assault trials. Ruff, *Crime, justice and public order*, 79; Blastenbrei, 'Violence, arms and criminal justice', 75; Rose, *Homicide in North Italy*, 130.

¹²⁰ Roberts, 'Vendetta, violence, and police power', 5

¹²¹ Hurl-Eamon, *Gender and petty violence*, 74; Walker, *Crime, gender and social order*, 79.

the senatorial class and their licensed servants.¹²² In the eyes of papal justice, the possession of arms constituted a crucial cause of the endemic violence. Thus, in a bid to improve public order and mitigate violence in Bologna's streets and villages during the seventeenth century, from the sixteenth-century onwards weapons became the pillars of the public order legislation.¹²³ This ambition was reflected in the 1610 *Bando Generale*, the summation of the criminal by-laws, which prohibited the carrying of a wide range of arms in the city and countryside.¹²⁴ The carrying of swords without a licence was also prohibited on pain of the loss of the arm, a fine of 25 gold scudi and three *tratti di corda*.¹²⁵ However, although the right to carry swords was outlawed on broad social levels, a massive number of civic officials and notables were exempted from its provisions, beginning with the *Anziani* and the *Tribunale delle Plebe* and including the counts, senators, judges, soldiers, notaries, captain gatekeepers, artisans, and citizens and inhabitants who returned from outside the city.¹²⁶ The special status of these officials and notables was largely upheld in later edicts throughout the seventeenth century, although further restrictions and conditions were imposed upon them regarding the bearing of other blades such as daggers, the length and blunting of blades and the licensing of servants.¹²⁷

Firearms, another male preserve, were also heavily regulated in early modern Italian towns. In Bologna throughout the seventeenth and eighteenth centuries, arquebuses were often subject to an absolute ban. Under the section of prohibited arms in the 1610 criminal by-laws, the arms mentioned first were the *archibugietti* - longer than three palms and suitable to wound from far away - which were absolutely forbidden.¹²⁸ The punishments for the bearing of these rudimentary firearms ranged from death by hanging for the *archibugietti corti da ruota*, the *archibugio longo a ruota* and pistols to a fine of 200 scudi and three *tratti di corda* for the *arcobugio da fuoco*.¹²⁹

Despite these harsh prescribed punishments, Colin Rose has argued that firearms were nevertheless readily available either through the widespread licensing system if not through the black market.¹³⁰ In their campaign against bandits, the *Torrone* decreed in 1614

¹²² Rose, Homicide in North Italy, 231.

¹²³ *Ibidem*, 230; Blastenbrei, 'Violence, arms and criminal justice', 75; *Bando generale Serbelloni 1756*, chapter XLVI, No. 7, page 75.

¹²⁴ *Bando generale Giustiniano 1610*, chapter XXIV, page 43-51.

¹²⁵ *Ibidem*, 47.

¹²⁶ *Ibidem*, 47-49.

¹²⁷ Rose, Homicide in North Italy, 230-231.

¹²⁸ *Bando generale Giustiniano 1610*, chapter XXIV, no.2, page 43.

¹²⁹ *Ibidem*, 43-45.

¹³⁰ Rose, Homicide in North Italy, 166-167.

the obligation of all *contadini* in Bologna's rural surroundings to keep in their house "at least one, and preferably two, loaded wheel-lock arquebuses, and to carry one with them at all times when out in their fields and around their villages."¹³¹ Due to the many disorders and homicides that accompanied the rise of firearms ownership, the decree was reversed within two and a half years. However, the ubiquity of the firearms continued to haunt the *Torrone*, as men continued to use them in their fights and murders throughout the seventeenth and eighteenth centuries.¹³² The high number of citations issued on a daily basis by the criminal court's lawmen for unlicensed weapons demonstrated a continuous ubiquity of these arms among the male Bolognese populace.¹³³

While the use of swords and firearms was thus distinctly reserved to men, it is important to emphasise that both men and women used a broad range of items in their violent altercations. Table 16 shows the categories of weapons used by men and women in their violent quarrels during the sample periods between 1655 and 1755. Taken together, swords and firearms only made up a quarter of the weapons used by men in an urban setting. With their specific connotations of noble (the swords) and pre-meditated violence (the arquebuses), these arms were not necessarily the most representative for men's quotidian violence, neither quantitatively nor contextually. For the spontaneous rises to violence that characterised much of the quotidian altercations that filled the *Torrone's* court records, aggressors reached for their knives, their tools or other handy implements they had on them or could find in their nearby surroundings.¹³⁴

Various work tools were also among the items weaponised in the event of an escalated dispute. In proportional terms they were used equally often by men and women, making up 15 per cent of women's weapons and 12 per cent of men's. They broadly reflected their occupations and work environments as they were either picked up in the work environment during the fight or, in case of the smaller items, were carried around as part of the offender's profession. For men the tools they used in their violent altercations reflected their work in stables (shovels, pitchforks, horse bridles and leather whips), agriculture (sickles), textile (textile rods, spools and scissors) and as artisans (hammers), among which the tools of cobblers were most prominent (cobbler knives, leather punchers and molds).

¹³¹ ASBo, *Legato Bandi*, 1600-1700, bando of 7 June 1614, as cited in Rose, *Homicide in North Italy*, 85.

¹³² For a detailed examination of the predominance of arquebuses as weapons in the prosecution of long-standing conflicts resulting in death, see Rose, *Homicide in North Italy*, 117-193, particularly 180.

¹³³ *Ibidem*, 231.

¹³⁴ Rose, *Homicide in North Italy*, 180.

Women’s tools also refer to their textile work (textile rods, spindles) and furthermore include sickles and shovels.

TABLE 16. WEAPONS USED IN REPORTED PHYSICAL VIOLENCE, CA. 1655-1755														
	Firearm		Edged ^a		Work tool ^b		Houseware ^c		Stick		Stone		Misc.	
Female defendants (N=54)	0	0%	11	20%	8	15%	21	39%	5	9%	7	13%	2	4%
Male defendants (N=317)	19	6%	141	44%	38	12%	20	6%	41	13%	53	17%	5	2%

Source: Sample 2 and 3 (see appendix).
 Included are the categories of lethal physical violence, serious physical violence and petty physical violence. Not included in this table are the allegedly unarmed assailants: 133 women, 214 men. The distribution is roughly the same for petty physical violence alone.

^a Includes swords, daggers and knives. Out of the 141 male defendants recorded to have used edged weapons, 49 used swords (35%).
^b Included are tools carried outside of the household setting, often referred to as tools for certain professions such as ‘cobbler’s knife’ or ‘instruments’, hammers, scissors, sickles and shovels.
^c This category includes a range of items found around the house such as foot stoves, rolling pins, pots and pans and pieces of furniture.

Importantly, a broad range of knives were utilised as weapons in violence. Various kinds of knives and daggers (though rarely the elite stiletto) made up over a quarter of all of the weapons mentioned in men’s violence (29 per cent excluding swords) and 20 per cent of women’s. Knives were of course ubiquitous in the urban space as they were far less regulated than for example firearms and swords and furthermore had many functions. Indeed, men and women of all social stripes were accustomed to carrying a blade, ostensibly for cutting bread or eating and only occasionally, when quarrels escalated, for fighting.

Literature commonly associates certain weapons with particular kinds of social segments. While swords were at least in normative terms reserved for gentlemen and their aides, knife fighting was affiliated with the population’s lower social strata.¹³⁵ Broadly speaking, the Bolognese court records indeed support such subdivisions, identifying at least two socially distinct groups: the sword fighters (arguably alongside those that fought with daggers) and the knife fighters. The group that fought with swords clearly belonged to a higher social segment and included a variety of those exempted from the ban on weapons, such as a marquis, three chevaliers, a notary’s son and seven servants.¹³⁶ Those fighting with

¹³⁵ Boschi, ‘Knife fighting in Rome, 138; P. Spierenburg, ‘Knife fighting and popular codes of honor in early modern Amsterdam’, in P. Spierenburg (ed.), *Men and violence. Gender, honor and rituals in modern Europe and America*. (Columbus: Ohio State University Press, 1998) 109-110.

¹³⁶ The category of ‘swords’ includes 2 sables. Among the 31 known professions of the sword fighters (out of 43), there were also various merchants (5), (master) artisans (9) as well as various seemingly lower-class professions

daggers resemble the group of the sword fighters, including one gentleman (jailed nine times previously, however), a knight and three servants, as well as various artisans.¹³⁷ The knife fighters on the other hand clearly belonged to the broad band of urban artisans and labourers.

Some scholars have made further subdivisions. In his work on knife-fighting in seventeenth- and eighteenth-century Amsterdam, Pieter Spierenburg went so far as to assert that the groups of people that used knives were socially distinct from those that used other weapons such as sticks.¹³⁸ According to this theory, sticks were predominantly used by the more respectable people who refused to become involved in knife fights and instead, when threatened or challenged, tried to ward off the danger by other means such as a stick. The people with knives on the other hand, according to Spierenburg, occupied a social position along the border of the 'respectable and disreputable segment' of the urban lower classes.

Whether this distinction between knife and stick fighters is also significant in the Bolognese case is open to discussion. Firstly, there is no mention of the parameters for this inference in Spierenburg's work. Secondly, the Bolognese sources did not systematically record information on offenders' occupations, criminal pasts and/or reputation of the accused. Based on the data at hand, however, the difference between the people with knives and sticks does not appear to have been that significant in early modern Bologna. As mentioned before, the knife fighters often belonged to the group of artisans (consisting of cobblers for example, as well as various types of textile workers), but also included one arms keeper. Only two of the knife fighters were recorded to have been jailed before. One of them was Francesco Antonio Angeloni, the aforementioned arms keeper, who had wounded an innkeeper, and the other was tanner Girolamo Romagnoli, having spent 17 days in the bishop's jail for an unspecified offence.¹³⁹

The court records paint a rather similar picture of those who fought with sticks. Sticks and stones were among the more 'circumstantial' weapons, as they were often picked up during a fight rather than carried about the person, but made up significant proportions for both men and women. Nine per cent of the women and 13 per cent of the male fighters employed sticks in their fights. Not many appeared to have had a criminal past: only one of

such as cleaners (2), gong farmers (2) and even a vagabond that fought with swords that they had either stolen, acquired through the licensing system or through the black market. For 14 sword fighters, the occupation was unknown.

¹³⁷ The 19 'dagger fighters' record 10 professions: 1 gentleman, 1 chevalier, 3 servants, 2 barbers, 2 coopers and 1 painter.

¹³⁸ Spierenburg, 'Knife fighting and popular codes of honor', 109-110.

¹³⁹ ASBo, Torrione, 7869-2, fasc. 10; 7869-1, fol. 149.

them has been reported as having just been released from prison for an unspecified crime.¹⁴⁰ But while some of the stick fighters indeed attained respectable social positions (for example as church guardians and guilders), the majority appeared to have belonged to the same, ambiguous group of artisans (primarily coopers, bricklayers and various apprentices), complemented by porters and one unemployed beggar. Based on the occupational data and crime histories derived from the Bolognese court records, there is little evidence that those who fought with sticks belonged to a more respectable segment of the urban populace. What does stand out among the stick fighters is the number of apprentices and porters among them, a peculiarity which is shared by those that hurled stones.

Stones formed opportune weapons for men and women alike, making up 13 per cent of women's weapons and 17 per cent of men's. The streets were littered with stones, roof tiles and pottery shards and it therefore comes as little surprise that people in early modern Italy were often reported to have carried them with them and used them in their fights. For seventeenth-century Rome Robert Davis observed that the police "were forever stopping" people with rocks on them; in their pockets, under their cloaks, up their sleeves, in their work aprons or even in the lining of their hats.¹⁴¹ Much of the appeal of stones as weapons lay in their ubiquity, as they could easily be picked up during a brawl. On 9 February 1706, the angered barber's apprentice Gio Battista Rampone, for example, spontaneously threw a stone at the back of Giovanni Alberti, a matress maker's apprentice, after he had played a prank on him.¹⁴² Similarly, Domenico and Marta Pongetti, two textile cutters, took offence at their co-worker Giuseppe Fiorentini's jokes on 6 August 1755 and Marta hurled a stone at him, hitting Giuseppe in the eye.¹⁴³

A relatively small but culturally significant proportion of the fights with stones concerned the so-called *sassaiole* or *sassate*. A continued series of edicts issued against the *sassate* (rock-throwing battles) in many of the Italian towns throughout the centuries attests both to the pursuit to outlaw it and to its failure to push rock-throwing out of the civic mainstream. The unsuccessful outlawing of this practice in Perugia (also part of the Papal States) reconstructed by Davis mirrors the situation in Bologna, where both the criminal by-law of 1610 and that of 1756 reiterated the hefty fines and public corporal punishment

¹⁴⁰ ASBo, Torrone, 6653, fasc. 2.

¹⁴¹ Davis, 'Say it with stones', 113.

¹⁴² ASBo, Torrone, 7608-1, fol. 176.

¹⁴³ ASBo, Torrone, 8171-1, fol. 157.

prescribed to those that participated in or went to see the rock-throwing battles.¹⁴⁴ Yet, as in Perugia, the early modern Bolognese court records contain many references to these forbidden rock battles, particularly because doctors treating those injured by rock-throwing were required to denounce their patients – nearly always claiming to be an innocent bystander – to the *Torrone*.¹⁴⁵ The denunciation by Gaetano Ordellassi, an eight-year-old boy is no exception and is indeed in many ways emblematic of these rock-throwing battles.¹⁴⁶ On 6 August 1674 he found himself before one of the court's notaries with a barber's report describing the grave head wound he had sustained the previous Saturday. He described sitting on the ground on a street near to where they buried the hanged. Many boys were battling each other, throwing stones, when one of these stones hit Gaetano in the middle of the head, wounding him 'with some danger to life'.

While stones were used as weapons by men and women alike, the *fare a sassate* is considered to be a crime typically committed by groups of young men and boys.¹⁴⁷ The appeal of the rock-throwing battles lay in the cultural and political sphere. Culturally, being attacked by stones was considered shameful as it likened the victim to an uncivilised beast.¹⁴⁸ Rather than merely functioning as weapons that caused physical injury, Davis argued that the fights with stones must also be viewed as a 'complex means of discourse' that involved moral hurt, personal vilification and an anti-authoritarian, anti-papal connotation.¹⁴⁹ Although women certainly did use stones as weapons in their violent one-on-one altercations, there is little evidence that they partook in the local legacies of the *sassate*. Bolognese court records as well as Perugia's police accounts seem to support the notion that the offenders were young men. Although systematic inquiries into the age of offenders was lacking in the case of Bologna, the groups of stone-throwers were invariably referred to as *ragazzi*, i.e. boys. Often, though not always, victims were also boys themselves. The denunciation by Girolamo Blasio is illustrative in this regard.¹⁵⁰ After being treated for a dangerous head wound, he identified the principal perpetrator as a boy – "big like me" – of around twelve years old.¹⁵¹

¹⁴⁴ *Bando generale Giustiniano 1610*, chapter XXV, no. 5-7, page 52-53; *Bando generale Serbelloni 1756*, chapter LXII, no. 8-9, page 112.

¹⁴⁵ Davis, 'Say it with stones', 119.

¹⁴⁶ ASBo, Torrone, 7028, fol. 50.

¹⁴⁷ Angelozzi and Casanova, *Donne criminali*, 83.

¹⁴⁸ Davis, 'Say it with stones', 114-115.

¹⁴⁹ *Ibidem*, 118, 127.

¹⁵⁰ ASBo, Torrone, 6620, fol. 273.

¹⁵¹ *Ibidem*: "[...] non conosco detto ragazzo, ne si chiama, ma è grande come sono, et puole havere dodici anni in circa [...]"

In literature, knives, swords and firearms are commonly contrasted to the pottery, dishes, pots and pans that made up so-called female weapons.¹⁵² The Bolognese data indeed confirm the prevalence of various housewares employed in women's violence, which made up 39 per cent of their weapons (see table 16). The importance of such items is striking when compared to men's use of housewares, which was limited to a comparatively meagre six per cent of their weapons.

The housewares women used in their violent altercations included various rather stereotypically gendered domestic goods, such as pots and pans, rolling pins, bottles, water buckets, chairs and food items, but were not necessarily as harmless as may seem. Pieces of furniture (like a chair) were used to beat one another, which could cause significant bodily harm, and, importantly, a very significant number of women flung foot stoves at their adversaries. Within the category of housewares, these peculiar foot stoves made up nearly half of the weapons women used in their assaults. The trial against Ursula Bagliardi on 5 February 1755 is a telling example of the damaging potential of this kind of weapon.¹⁵³ Married spinster Barbara Lambertini had to be treated in the hospital for a serious head wound after getting into a fight with Ursula after Barbara had seen her sixteen-month-old toddler being hit with a stone by Ursula's young daughter and smacked the girl in the face to discipline her. After finding out about her daughter's disciplining, Ursula sought out Barbara and threw a foot warmer still full with fire (*pieno di fuoco*) in her face. According to the surgeon who treated her, this resulted in life-endangering wounds. Other victims of such still lit foot stoves describe similar unnerving effects. When Maria Corellini threw one at her neighbour Antonia Vignecchi, in anger at having to pay more rent, Antonia described it hitting her in the face, and that she ended up with wounds all the way from her mouth to her stomach.¹⁵⁴

However, calling housewares typically female weapons seems too simplistic. After all, the Bolognese court records furthermore show that women, like men, also assaulted people with knives, work tools as well as sticks and stones they found on the ground. It is thus important to reiterate Walker's assessment that both women and men armed themselves with whatever they had at hand.¹⁵⁵ With the exception perhaps of arquebuses, which due to their size and weight alone required some sort of planning on behalf of the

¹⁵² Van der Heijden, 'Women, violence and urban justice', 88; Hurl-Eamon, *Gender and petty violence*, 72-73.

¹⁵³ ASBo, Torrione, 8166-2, fasc. 50.

¹⁵⁴ ASBo, Torrione, 7869-1, fol. 30.

¹⁵⁵ Walker, *Crime, gender and social order*, 79.

offender, the types of weapons men and women used probably reveals less about the premeditation of violence than about the gendered contexts in which this violence took place.

Despite the normative prescriptions that have coloured historians' perceptions of women's violence, there is little evidence that women's behaviour was characterised by a particular weakness or passivity. At the same time, it is important to emphasise that men's violence as a whole was by no means always deadly, nor did the type of weapons they used diverge inherently from those employed by women. Having assessed that the violence of men and women was in many ways more alike than different, it is now important to scrutinise two aspects that play important roles in the discussions on the gendered nature of violence. To understand the meaning and purpose of women's violence in early modern Italian society, the next sections will explore the social profiles of both offenders and victims, which are believed to have been highly gendered, as well as where and when violence occurred.

The social landscape of violence

Who were the men and women involved in violence? Much of our understanding of the social composition of violent offenders is based on studies on lethal violence. These studies emphasise that the majority of murderers were (and are still) young men between the age of twenty and twenty-nine, whose victims were often of the same age and sex.¹⁵⁶ While no scholar disputes the predominance of men among killers, the focus on homicide has led to very particular, arguably inaccurate characterisation of quotidian violence in early modern Europe. The *Torrone's* additional function as a forum for conflict resolution allows us to also gauge a large number of non-fatal violent altercations. This gives up the opportunity to gain a broader perspective on the realities of everyday violence in the urban environment of an early modern Italian town. The examination of the social characteristics of those involved in physical and verbal aggression will demonstrate the prevalence of violence among broad sections of the population.

Ascertaining the social positions of offenders and victims of violence is no easy feat. As others have noted, the characteristics of wealth and status that marked social division during the early modern period were fluid, and the language of social description was

¹⁵⁶ R. Muchembled, *A history of violence: from the end of the Middle Ages to the present* (Cambridge: Polity, 2012) 9.

imprecise.¹⁵⁷ The descriptions found in the criminal court records are no different. Overall an assessment of the social profile of the users of justice based on socioeconomic characteristics is difficult to give because the sources do not provide systematic information on them. For this reason, markers of identity such as provenance and age, while meaningful and interesting, are beyond the scope of this section. What will be treated here are the occupational and marital status of the plaintiffs and defendants, who they fought and what relationships existed among them.

Just how scarce the information about these aspects is, can be seen in table 17. At least half of the criminal court records collected provides no information at all about the marital or occupational status of the defendants. Aside from its paucity, this table again demonstrates that the data the Bolognese criminal court records provide for men and women is skewed. As was found in the examination of the denunciations, for men it was far more common that the occupation was listed than marital status, while the opposite was true for women. The following examination of the social landscape of violence is thus inevitably based only on that proportion of the cases that do provide this information, and should therefore be approached with caution.

The occupations recorded in the Bolognese criminal records represent a broad section of society. For their livelihood, defendants of both sexes pursued a wide range of professions, from servants, labourers, market sellers and struggling textile workers, to shopkeepers, skilled master artisans and even some public officials, as well as nobles. In this regard the Bolognese situation mirrors that of other late medieval and early modern towns, in which violence originated not from fringe groups as much as from the centre of communities.¹⁵⁸ Far from being marginalised to the social periphery, violence belonged to the cultural repertoire of most classes and groups in pre-modern Europe. Craftsmen, especially apprentices but also masters, have been identified as the core group among urban perpetrators.

A similar image has been observed for the profiles of victims of violence, as offenders and victims often belonged to similar social groups. When comparing the group of victims and offenders, one can discern a slight difference in the sense that the middle and wealthier classes were slightly better represented among victims of violence. This difference was largely caused by public officials or other figures of authority who experienced violence as a kind of occupational hazard. A good example of this has already been provided by the

¹⁵⁷ Hitchcock and Shoemaker, *London lives*, 4.

¹⁵⁸ Schwerhoff, 'Social control of violence', 227, 241.

aforementioned name-calling of local bailiff Stefano a Porta during the early 1650s, who was called a fucking cuckold spy while conducting his investigation.¹⁵⁹ The threat of violence towards *corsore* Pier Maroni in 1706 is also illustrative of these types of incidents.¹⁶⁰ Following a complaint made against Giovanni Gambalunga, a seller of chestnut cookies, the *corsore* issued a citation to Giovanni that obliged him to come to the *Torrone* to make a statement. Giovanni did not want to accept the citation, which the *corsore* ended up leaving for him under a bag of chestnut flour, and was even more disinclined to pay him the twenty-six *quattrini* demanded for bringing the citation, saying he will not give him anything and was not afraid of him. When the *corsore* tried to seize a towel as collateral Giovanni was angered further, raising his arm to punch him and shouting at him to drop his possessions, leading the *corsore* to scurry away and lodge a complaint. However, these types of acts of aggression against social ‘superiors’ only represent a minority of the cases recorded by the criminal court.

	Women				Men			
	Offender (N=205)		Victim (N=283)		Offender (N=723)		Victim (N=643)	
Only marital status	68	33%	150	53%	35	5%	27	4%
Only occupation	21	10%	14	5%	389	54%	314	49%
Both	17	8%	41	14%	39	5%	7	1%
Neither	99	48%	78	28%	260	36%	295	46%

Source: Sample 2a and 2b (see appendix).
Calculations based on denunciations and *processi* of physical violence, verbal aggression and issuances and breach of the *precetto criminale (de non offendendo)*.

As elsewhere in early modern Europe, violence did not commonly challenge presiding hierarchies and structures of social and political authority.¹⁶¹ Overall, most perpetrators of violence belonged to the lower reaches of society and offended those of roughly equal status.¹⁶² In many ways more typical of everyday violence in early modern European towns than the aforementioned violent acts against public officials were the brawls that erupted among artisans, peddlers and porters during their daily affairs. The trial against

¹⁵⁹ ASBo, Torrone, 6609, fasc. 142. “[...] et esso subito mi ha ingiuriato di parole dicendome spia becca fotuta, ladro, dicendome inoltre ch’io vada a fare la spia, ch’è mio mestiere”

¹⁶⁰ ASBo, Torrone, 7608-1, fol. 235.

¹⁶¹ Schwerhoff, ‘Social control of violence’, 227-228; Rose, *Homicide in North Italy*, 98.

¹⁶² Dean, *Crime and justice in late medieval Italy*, 171; Ruff, *Violence in early modern Europe*, 125; Rose, *Homicide in North Italy*, 130; Becker, ‘Changing patterns of violence and justice’, 283; G. Ruggiero, *Violence in early Renaissance Venice* (New Brunswick/New Jersey: Rutgers University Press, 1980) 120.

Domenico Maria Giacometti in 1706 is in many ways illustrative of these kinds of quarrels.¹⁶³ Because he had a nosebleed, he lost an employment opportunity to his fellow wine porter Giuseppe Tomasi and ended up stabbing him out of anger a while later. There are similar examples for female aggressors. In a denunciation from 1724, vegetable seller Fiorina was fed up with labourer Giacomo Ruspulini's lingering around her stall and insinuated he should get on with it and purchase something before he died.¹⁶⁴ Giacomo responded by saying he would erect the gallows for her husband then, if she had one, after which Fiorina hit him in the face with her stool. With a bloodied face he hurried away, first to the market chief and then to the hospital to have his wounds treated. Interestingly, while women's violence did also generally adhere to hierarchies of class and social status, this did not prevent them from offending against men – something about which we will speak more in detail later on.

An interesting feature of the Bolognese case – and arguably more broadly of the premodern Italian one – was the violence perpetrated by members of the nobility. Recent historical works have revealed how early modern states saw noble violence as a threat to the maintenance and extension of their authority.¹⁶⁵ Looking back on the past centuries of private vendettas, Legate Serbelloni's 1756 summation of the criminal by-laws describes this factional violence as "destroying human society."¹⁶⁶ This perceived threat was also reflected in the criminal court records. For towns all over medieval Europe, scholars have observed an overrepresentation of the upper classes in violent behaviours compared to their demographic proportions.¹⁶⁷ Although long-term comparisons on the social status of offenders are lacking, it has been suggested that the involvement of the upper classes in criminal violence declined sooner in northern than in southern Europe.¹⁶⁸ While noble violence in England, for example, is assumed to have declined after 1550, upper-class violence remained prevalent in Bologna well into the early modern period.

This upper-class violence, as well as the papal government's campaign against it, was deeply entrenched in Northern Italy's political history. During the fifteenth century, the papacy in Rome wished to develop for itself a political identity in line with the city states of the Italian peninsula and therefore reasserted its claims to direct governance in north Italy;

¹⁶³ ASBo, Torrone, 7608-2, fasc. 30.

¹⁶⁴ ASBo, Torrone, 7869-1, fol. 2.

¹⁶⁵ Cummins, 'Forgiving crimes in early modern Naples', 255.

¹⁶⁶ *Bando generale Serbelloni 1756*, chapter VI, no. 3, page 12

¹⁶⁷ Eisner, 'Long-term historical trends', 116-117; G. Ruggiero, *Violence in early Renaissance Venice* (New Brunswick/New Jersey: Rutgers University Press, 1980); S.R. Blanshei, 'Crime and law enforcement in medieval Bologna', *Journal of social history* 16:1 (1982) 123; Hanawalt, *Crime and conflict*, 131.

¹⁶⁸ See for a summary of this evidence Eisner, 'Long-term historical trends', 117.

remnants of the old Papal States. The re-establishment of papal authority over this part of Emilia to which Bologna belonged has been called 'a violent project' as it was met with continued resistance by local oligarchies that wished to retain their power.¹⁶⁹ This resistance and particularly the refusal of Bologna's leading Bentivoglio clan to adapt to papal rule led to the conquering of the city by Pope Julius II in 1506 as well as to the expulsion and hanging of dozens of leading, rebellious oligarchs in subsequent years. The papal government furthermore sought to appease Bologna's leading families through a series of concessions and the entering of papal ranks. But the nobility's violence was not only directed against the nascent papal rule: they also fought each other. Unlike other Italian states, during the period of 'absolutist' government Bologna's nobility remained riven by the factional identities (Republican and Oligarchic) that had dominated the late-communal period.¹⁷⁰ Many of the edicts issued throughout the seventeenth century indeed aimed to curb the nobility's independence, power and violence in the city of Bologna and its rural hinterlands, as elsewhere in and outside the Papal States.¹⁷¹

Related to this endeavour, the Bolognese criminal court records reveal a significant shift in the social composition of those involved in violence between the seventeenth and eighteenth centuries. In Siena in 1600, nobles committed around 30 per cent of the homicides prosecuted, 16 per cent by the mid-century and only eight per cent by 1700.¹⁷² A similar decline has been observed for seventeenth-century Bologna by Rose, who has contended that nearly half of the homicide victims in the (urban and rural) territory of Bologna had consisted of members of the nobility and their servants.¹⁷³ This was bound to change. According to Angelozzi and Casanova, the seventeenth century was characterised by the premeditative violence and vendettas of the nobility, while it was the love rivalries, futile arguments and escalated drunken brawls that typified the eighteenth century.¹⁷⁴ They have argued that this change was engendered by the pacification of Bologna's fractious local nobility by the turn of the eighteenth century. They attributed this 'disciplining' of the nobility to a programme of re-education in enlightenment values and the *scienza cavalleresca*, a new chivalric code that emphasised courtly civility over violent revenge as the defining

¹⁶⁹ Rose, *Homicide in North Italy*, 35-37.

¹⁷⁰ *Ibidem*, 31, 38.

¹⁷¹ G. Hanlon, 'The decline of violence in the West: From cultural to post-cultural history', *English historical review* 128:531 (2013) 390; Hanlon, 'Violence and its control', 144.

¹⁷² O. Di Simplicio, *Peccato, penitenza, perdono: Siena 1575-1800. La formazione della coscienza dell'Italia moderna* (Milan: Franco Angeli Storia, 1994) 103, 130 as quoted in Hanlon, 'Violence and its control', 148.

¹⁷³ Rose, *Homicide in North Italy*, 185.

¹⁷⁴ Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 183.

trait of the nobleman.¹⁷⁵ Rose, however, contended that the Bolognese nobility were not so much civilised or re-educated, as that the more violent ones were prosecuted and banished to beyond the borders of the Papal States.¹⁷⁶ This culminated in the expulsion of a large swathe of the local nobility in 1664, after which homicide rates fell to rates similar to those of the early 1600s.

That the social composition of those involved in violence changed during the second half of the seventeenth century is supported by my own samples of both lethal and non-lethal violence in the urban center of Bologna during the seventeenth and eighteenth centuries. Although the proportion of nobles and their retainers among perpetrators of all forms of violence was lower than among homicides alone examined by Rose, a similar trend can nevertheless be distinguished. Among the *processi* for all acts of physical and verbal aggression sampled for the years 1655, 1675, 1705, 1725 and 1755, over half of those explicitly referred to as notables on the cover page of the indictment were concentrated in the 1655 sample year.¹⁷⁷ Furthermore, when examining the *processi* and denunciations more in-depth, it is revealed that nearly one-seventh of the violent offenders in the 1655 sample consisted of nobles or their servants – *bravi*, *socci* and *servitorii*. In the periods after this – and indeed following the final expulsion of rebellious noble families in 1664 – the percentage of nobles among offenders dropped to a mere two to three per cent in the sample years afterwards.¹⁷⁸ Although in urban Bologna labourers and artisans had invariably consisted of the largest group of perpetrators of quotidian violence, the diminishing share of the nobility and their retainers is nevertheless important to the understanding of the changing face of violence during the seventeenth and eighteenth centuries. Although the bell curve of violence in seventeenth-century Bologna illustrates the capriciousness of the secular decline of violence, it corroborates the suggestion by scholars that the ‘retreat of the nobility’ from aggressive behaviours occurred later in the south than in the north of Europe.¹⁷⁹

Compared with the data on occupation or estate, marital status is far more often recorded for women than for men in the criminal court documents. As mentioned before,

¹⁷⁵ Angelozzi and Casanova, *La nobiltà disciplinata*, 243-288.

¹⁷⁶ Rose, *Homicide in North Italy*, 2, 228.

¹⁷⁷ In a representative sample of all urban *processi* collected for the years 1655, 1675, 1705, 1725 and 1755, 13 out of 588 identified offenders indicted for physical or verbal aggression were explicitly named as *D.* (*don*, notable) on the cover page of the trial dossier. Seven of these offenders had offended in the sample year 1655, 2 in 1675, 1 in 1705, 2 in 1725 and 1 in 1755.

¹⁷⁸ In the 1655 sample, 20 out of 144 offenders with an indication of profession or estate belonged to the nobility or their retainers. For 1675 the sample includes only 2 references (out of 100 offenders), and in the periods after that only 7 (out of 267) offenders are categorised as such.

¹⁷⁹ Eisner, ‘Long-term historical trends’, 117.

scholars have suggested that this was related to the fact that a woman's social position was much more contingent on her relationship to other men (her father and husband in particular).¹⁸⁰ Table 18 breaks down the marital statuses recorded in the sampled denunciations and *processi* from the *Torrone*. The preponderance of married offenders and victims of violence is striking. Despite the discrepancy in information provided for men and women, they share a roughly similar proportional distribution among the various civil statuses. Those married made up by far the largest proportion of those involved in violence, followed by the unmarried (as in never-married) and lastly widowed.

TABLE 18. MARITAL STATUSES OF ACCUSED OFFENDERS AND VICTIMS OF VIOLENCE, CA. 1655-1755								
	Women				Men			
	Offender (N=85)		Victim (N= 191)		Offender (N=74)		Victim (N=34)	
Unmarried	10	12%	35	18%	8	11%	5	15%
Married	74	87%	145	76%	66	89%	28	82%
Widowed	1	1%	11	6%	0	0%	1	3%

Source: Sample 2a and 2b (see appendix).
Calculations based on denunciations and *processi* of physical violence, verbal aggression and issuances of breach of the *precetto criminale (de non offendendo)*.

Whether this data provides a realistic portrayal of violent men in particular could be called into question. Aside from the proportionally scarce recordings of men's marital statuses in the criminal court records, scholarly literature casts substantial doubt upon a characterisation of violent men as predominantly married. Indeed, criminologists, sociologists and historians generally agree that it was young unmarried men who were predominantly responsible for violent offences.¹⁸¹ This has been contended for towns all over Europe, as well as for earlier and later time periods. The scarcity of information in my sample excludes any real proof to the contrary.

On the other hand, there are several reasons why characterising female aggressors as married does not seem unlikely. The more extensive recording of the marital statuses for women was the first reason for this, since they make the data more reliable. Secondly, it could be speculated that in early modern Italian towns wives experienced greater freedom than unmarried women, whose movements were controlled to a greater extent due to the importance attached to preserving her chastity and the family's honour. The fact that

¹⁸⁰ Castan, *Les criminels de Languedoc*, 36-37.

¹⁸¹ Ruff, *Violence in early modern Europe*, 125; Eisner, 'Long-term historical trends', 113-115; Spierenburg, *A history of murder*, 90-91; Mantecón, 'The patterns of violence in early modern Spain', 245, 248; Schwerhoff, 'Social control of violence', 227; Blastenbrei, *Kriminalität in Rom*, 95.

commercial activities were exclusively performed by married women and widows, according to information from Bologna's 1796 partial census, could be interpreted as a practical outcome of this more restrictive attitude.¹⁸² Unmarried women thus appear to have been excluded from commerce and trade, be it in the shops or out on the streets and markets. According to Maura Palazzi, who examined the census, this exclusion is most likely related to the importance attributed to women's sexual honour and the necessity of protecting it by controlling the movements of unmarried women. For married women, this anxiety diminished somewhat and they were then arguably able to become involved in a wider range of social situations that made frequent and wide-ranging contacts possible.

But more importantly, that the women who came before the criminal court for violent offences were often married has also been observed in other scholarly works.¹⁸³ Walker, noted that married women constituted over half of all female defendants in assault cases in seventeenth-century Cheshire.¹⁸⁴ Similarly, Beattie found that in the urban parishes of eighteenth-century Surrey over 60 per cent of women accused of crimes against the person were married.¹⁸⁵ This was in stark contrast to the prosecutions for theft, in which single women and widows constituted the most important share. Beattie furthermore observed that many of these married, violent women were furthermore in settled and established positions in the community, with a good proportion being married to 'men of some substance', rather than being part of the "dispossessed and rootless sections of society."¹⁸⁶ In fact, in Bologna as in Surrey the integration of these women in the community may have been an important part of the reason why it was that *their* violence specifically came to the notice of the courts. Beattie hypothesised that this mechanism may have inflated the number of accused married women, who could afford to pay. But in a broader perspective, too, going to court for predominantly petty acts of aggression makes most sense when they involved other rooted members of the community. After all, given that Bologna's early modern criminal court primarily functioned as a forum for conflict resolution, charges were largely designed to extract reparations for the damage done, monetary or other. This bore most meaning when it occurred within the context of community.

¹⁸² Palazzi, 'Tessitrici, serve, treccole', 374.

¹⁸³ Beattie, 'The criminality of women', 101-102, 115; Kilday, *Women and violent crime*, 94; Walker, *Crime, gender and social order*, 76.

¹⁸⁴ Wives constituted 54.2 per cent, spinsters 35.6 per cent and widows 10.2 per cent of defendants according to Walker, *Crime, gender and social order*, 76.

¹⁸⁵ Beattie, 'The criminality of women', 101-102, 115.

¹⁸⁶ *Ibidem*, 102.

This brings us to the question of who fought whom in early modern Bologna. Scholars have observed that in early modern European towns in the majority of cases the patterns of interaction in quarrels reveal 'gender homogeneity'.¹⁸⁷ This meant that men generally faced men and women opposed other women. Nevertheless, the idea that women's violence should be categorised as 'same-sex' violence has been questioned. Notable among the critics of this notion is Walker, who instead observed that nearly three-quarters of the victims were male in female-perpetrated assaults.¹⁸⁸ Among the recognizances too, men comprised nearly half of those who sought the security of peace against women. This was the case regardless of whether women acted alone or in groups. In attempting to explain why women assaulted men to this degree, Walker argued that these altercations reflected contemporary realities as well as gendered style of prosecutions. Firstly, men generally possessed greater means than women to prosecute by indictment, which was not free of charge in Cheshire like in Bologna, but the patterns of women's violence were also informed by household structures and obligations.¹⁸⁹ She argued that wives exercised *de facto* control of the domestic space and defended household boundaries against men, who were "numerically more likely than women to be aggressors in such situations."¹⁹⁰ It was thus in the role of the mistress of the household that women most often became involved in disputes that the criminal courts heard about; when household concerns were at stake.

For early modern Bologna, as is shown in table 19, the truth lies somewhere in the middle between the 'gender homogeneity' proposed by most scholars and Walker's unsurpassed high share of female-on-male assaults. While the majority of violent protagonists offended against adversaries of their own sex, the share of women who victimised men should not be overlooked. Men – alone or in groups – constituted nearly one-third of the victims of women's verbal and physical aggression recorded in the criminal court documents. Women, on the other hand, constituted a significantly lower proportion of victims of acts of violence committed by men (only about one-fifth). In proportional terms, men's violence in Bologna was thus significantly more 'same-sex' than women's was.

To what extent this – relatively – greater likelihood of female-on-male altercations reflects contemporary realities or gendered styles of prosecution in Bologna, is difficult to ascertain. It is certain that rates of men victimising women would have been higher had

¹⁸⁷ Schwerhoff, 'Social control of violence', v 227; Spierenburg, 'How violent were women?', 21; Van der Heijden, 'Criminaliteit en sexe', 29-30; Vasta, 'Per una topografia della violenza femminile', 60.

¹⁸⁸ Walker, *Crime, gender and social order*, 79-80.

¹⁸⁹ *Ibidem*, 80.

¹⁹⁰ *Ibidem*, 52, 76, 80.

spousal violence been brought to the attention of the Bolognese criminal court more often and consistently. In Italy men had the right to chastise their wives and the law did little to correct men who abused this right. Several Italian studies on the subject suggest that in early modern Italy the right to chastise was enacted in legislation, respected by the law courts, and assumed by husbands in everyday marital life.¹⁹¹ In its most extreme form, the husband's right to discipline his wife functioned as an extenuating factor or even an acquittal in trials involving wife-killing. In non-lethal forms of domestic violence, too, Italian men brought before the court generally appealed to their natural right of correction.¹⁹² While 'moderate correction' therefore largely went uncontested, uncontrolled wife-beating was condemned by family members and neighbours alike.¹⁹³ Nevertheless, domestic violence only rarely came to the notice of the *Torrone*, and when it did these complaints were generally either rejected due to insufficient evidence, or they were settled semi voluntarily in the form of reconciliation.¹⁹⁴

TABLE 19. WHO ASSAULTED WHOM IN VIOLENT ENCOUNTERS BEFORE THE *TORRONE*, CA. 1655-1755

	Female victim		Male victim		Group, mixed		Group, mostly women		Group, mostly men		Authority figure	
	#	%	#	%	#	%	#	%	#	%	#	%
Female offender (N=205)	120	59%	55	27%	13	6%	13	6%	4	2%	-	-
Male offender (N=723)	135	19%	542	75%	16	2%	10	1%	13	2%	7	1%

Source: Sample 2a and 2b (appendix), counted by defendant.
Calculations based on denunciations and *processi* of physical violence, verbal aggression and issuances of breach of the *precetto criminale (de non offendendo)*.

As we will see in the next section, the overwhelming majority of cases documented by the *Torrone* concerned what Kilday has called 'communal' violence that occurred between neighbours, co-workers, clients and so on.¹⁹⁵ Whether, as has been argued for Cheshire, this role of women as defenders of household interests explains the greater likelihood of female-on-male altercations in Bologna is difficult to discern from the court records, which provide insufficient insight into the motives of brawls. However, what is certain is that the cost of

¹⁹¹ T. Dean, 'Domestic violence in late-medieval Bologna', *Renaissance studies* 18:4 (2004) 527; Cavina, *Nozze di sangue*, 30; Lombardi, 'Marriage in Italy', 112-113.

¹⁹² Cavina, *Nozze di sangue*, 111.

¹⁹³ Hacke, *Women, sex and marriage*, 141.

¹⁹⁴ Cavina, *Nozze di sangue*, 111, 115; Casanova, *Crimini nascosti*, 81.

¹⁹⁵ Kilday, *Women and violent crime*, 52, 92.

litigation – a criminal complaint could be brought to the court’s notice for free – was not a distinguishing factor in early modern Bologna.

A factor that did affect social patterns of violence was co-offending, i.e. whether or not they had male or female accomplices. For early modern Bologna, Angelozzi and Casanova have calculated that in around half of the cases women acted in association with others, such as their husbands, siblings and children as well as neighbours and friends.¹⁹⁶ They contend that women often had an ‘assisting role’. Various examples of cases could be given in which women did indeed incite men to commit violence. In 1646, Barbara Bentocchi, a married mother of one, was indicted alongside her lover Leonardo Bosci, a cobbler, for the attempted murder of her neighbour with whom she shared a house, the spinner Paolo Refiggeri.¹⁹⁷ Paolo had openly criticised her lifestyle, as Barbara was married but also a prostitute, which allegedly led Barbara to incite Leonardo and two of his cousins to attack Paolo as he entered the front door of the apartment complexes. In a similar mode, Rinaldo Rinaldi killed his lover Antonia Regatia’s husband in 1654 “with her participation and on her orders.”¹⁹⁸ Rinaldo was hung, while Antonia (who was a mother of one) was released on surety. While examples like these readily capture the imagination of women in non-executive roles, this assertion is complicated by the fact that women also regularly (nearly half of the co-offending cases) acted alongside other women. Furthermore, male accomplices were not necessarily described as the chief assailant. It was, for example, bread seller Leonora, and not her assistant Lorenzo, who ran after her customer, the cobbler Vincenzo di Stantani, when he said he wanted his money back because he did not like the bread.¹⁹⁹ Lorenzo did indeed have stones in his hand, but it was Leonora who had hit him on the back with a stick, making her the clear protagonist in this violent altercation.

There does seem to have been a gendered relation between the composition of the offender group and the gender of the victim. Although the topic of co-offending merits further scrutiny, some provisional conclusions can be drawn. Firstly, women by themselves fought a male victim in roughly one-third of the cases. In the cases where a woman had a male accomplice, the share of male victims rose to nearly 60 per cent. When female offenders enlisted the help of other women, they overwhelmingly fought with other female victims.

¹⁹⁶ Urban women committed crimes alongside their husband in about one-tenth of the cases, with other family members in roughly one-fifth of the cases and around the same percentage with non-family members. See Angelozzi and Casanova, *Donne criminali*, 113-117.

¹⁹⁷ ASBo, Torrione, 6620, fasc. 9.

¹⁹⁸ ASBo, Torrione, 6670-2, fasc. 2.

¹⁹⁹ ASBo, Torrione, 6653, fol. 131.

Men, on the other hand, were slightly more likely to offend by themselves, were more likely to co-offend with male accomplices, fought in proportionally larger groups and in all cases predominantly offended other men. There are thus some indications that the choice of accomplices, perhaps combined with the defence of household interests, has impacted the patterns of women's violence.

The relationship between the perpetrator and victim of violence was another variable of the social landscape of violence. Although it has been suggested that the likelihood of violence among strangers was probably more likely on urban streets and in town alehouses than in close-knit rural surroundings, studies suggest that most people involved in quarrels in early modern towns generally knew each other.²⁰⁰ For seventeenth-century Bologna, Rose has demonstrated that most homicides occurred within known relationships, where the victim and offender were at the very least acquainted with each other.²⁰¹ This also appears to be true for the more mundane forms of non-lethal violence in early modern Bologna. Despite the brevity of most denunciations, they generally reveal that the vast majority of violent altercations in the city of Bologna were committed by people who knew each other at least by name and acquaintance, rather than between strangers. Only about one-tenth of the urban Bolognese offenders were entirely unknown to the victim.²⁰²

Rather than complete strangers, offenders and victims of violence were commonly relatives, fellow professionals, acquaintances and neighbours. These relationships, broken down in table 20, could be gathered for nearly half of the denunciations and *processi* for physical and verbal aggression collected for the five samples between 1655 and 1755. This data testifies to the similarities between the everyday violence committed by men and women. Notably, it demonstrates that the overwhelming majority of reported violence in Bologna had taken place outside of household or family relations. Although studies on lethal violence suggest that women probably committed violence against 'intimate victims' such as children, husbands and servants, the same cannot be assumed for violence in general.²⁰³ Instead, women, like men, had many other opportunities for socialisation and conflict outside of the 'domestic realm' in the city.

²⁰⁰ Schwerhoff, 'Social control of violence', 227; Eisner, 'Long-term historical trends', 119.

²⁰¹ Rose, *Homicide in North Italy*, 145.

²⁰² From the 451 offenders whose relationship to the victim was known, 45 declare not knowing the offender at all, not even from sight.

²⁰³ Howard, *Crime, communities and authority*, 85-86; Kilday, *Women and violent crime*, 52-53; O. Hufton, 'Women and violence in early modern Europe', in: F. Dieteren and E. Kloek (eds.), *Writing women into history* (Amsterdam: Historisch Seminarium van de Universiteit van Amsterdam, 1991) 82-84; Beattie, 'The criminality of women', 83-84; Spierenburg, *A history of murder*, 16.

TABLE 20. SOCIAL AND ECONOMIC RELATIONSHIPS BETWEEN OFFENDERS AND THEIR VICTIMS, CA. 1655-1755					
		Women		Men	
		#	%	#	%
Family		8	10%	40	12%
Neighbourhood	Neighbours	58	57%	38	11%
	Landlord-tenants	8	8%	5	1%
	Employer-employee	1	1%	19	5%
Work and the urban economy	Colleagues-competitors	3	3%	37	11%
	Vendors-clients	3	3%	24	7%
	Creditor-debtor	2	2%	23	7%
Undefined friends & acquaintances		17	17%	117	34%
Unacquainted		1	1%	44	13%
Total		102	100%	347	100%

Source: Sample 2a and 2b (appendix), counted by defendant.
Calculations based on denunciations and *processi* of physical violence, verbal aggression and issuances and breaches of the *precetto criminale (de non offendendo)*.

In proportional terms, the relationships forged by women's activities in the urban economy were at least equally important as violent conflicts within the sphere of the family. Similar to other textile manufacturing towns such as Turin and Milan, women's labour force participation was high in Bologna: it has been estimated that nearly 64 per cent of Bolognese women aged eleven and over had paid employment.²⁰⁴ More than half of them worked in the textile industry. Most women thus had an economic life of their own, be it in their husband's business or outside of it. Orsola, who made and sold headdresses out of her home, for example, mistreated Paolo Salani, a citizen of Bologna, and his female acquaintance who wanted to return one of the three headdresses bought the week before. When setting a price, they had done so based on a total purchase of three, and Orsola did not agree with the restitution of one third of the price. With "bad words, and little respect" she mistreated Paolo and his acquaintance and started pushing both of them aggressively.²⁰⁵

Female fighters also came in the shape of market sellers competing in the market place and defending their economic interests with words and deeds. A good example of the fierce competition over preferred places on the market comes from Elisabetta Spadoni and her husband Melchiorre, a goldsmith, who together threatened to strike another goldsmith by

²⁰⁴ Palazzi, 'Tessitrici, serve, treccole', 366-367; D'Amico, 'Shameful mother', 110; Zucca Micheletto, 'Reconsidering women's labor force participation rates', 211.

²⁰⁵ ASBo, Torrione, 8171-1, fol. 80.

the name of Gasparo Cavalli with a cane if he would not give up the market stall she had set her eyes on.²⁰⁶ Similarly, Barbara Romare was pulled by the hair, dragged across the piazza and scratched on the face by another market seller who was upset with her for selling similar wares near to her stall at too cheap a price.²⁰⁷ The different social relationships will be discussed more extensively in the next section, which discusses the gendered geographies of violence, since these factors were very much intertwined. But what is important to note is that these examples echo women's broader socio-economic roles in the fabric of early modern towns.

Aside from the similarities, various gender differences in the perpetrator-victim relationships can be distilled from the table above. Firstly, the group of undefined friends and acquaintances was much larger for male than for female offenders (34 compared to 17 per cent). Many of the conflicts in this category occurred in the context of sociability, for example in and around inns as well as on the street. Conflicts revolved around losing and cheating at gambling as well as jokes and drunken banter taken the wrong way. Although women certainly visited taverns too – the Bolognese criminal court records feature several of these visits – the world of sociability is assumed to have differed for men and women.²⁰⁸ More so than for men, the presence of women in public spaces in early modern Italian towns was shrouded by normative restrictions, which when violated could not only impact her perceived respectability but also made her liable for criminal prosecution. When women fought with present and former friends and acquaintances, they therefore appear to have frequently done so in and around the home. In the criminal records women are often reported to have hung out around houses, for example leaning out of the window or standing in the doorway. This will be examined in more detail in the next section that discusses the importance of houses as spaces for women's violence. The prevalence of neighbours and the neighbourhood may therefore help to explain the relatively lower share of undefined friends and acquaintances for female offenders.

Secondly, while it is important to recognise that women's violent altercations also emerged from their activities in the urban economy, it is noteworthy that these kinds of relations were recorded more frequently for male than for female fighters (30 compared to 9

²⁰⁶ ASBo, Torrione, 8171-1, fol. 128.

²⁰⁷ ASBo, Torrione, 8171-2, fasc. 31. "[...] quale venuta meco a contesa a motive della nostra uniforme professione, pretendo essa dassi le mie a troppo vile prezzo [...]"

²⁰⁸ Taylor, *Honor and violence in golden age Spain*, 141; Howard, *Crime, communities and authority*, 76-77; M. Prior, 'Private spheres and public records. Reconstructing women's history for the early modern period', in: F. Dieteren and E. Kloek (eds.), *Writing women into history* (Amsterdam: Historisch seminarium van de Universiteit van Amsterdam, 1990) 61.

per cent). It does not seem unlikely that this difference was related to the gendered division of labour. As mentioned before, a significant proportion of men and (even more so) women in early modern Bologna found employment in the urban textile industry, as spinners, weavers, hosiery manufacturers and seamstresses.²⁰⁹ Throughout the early modern period, the male artisans in the shops, factories and mills increasingly specialised in producing the heavier silks of greater value, leaving the lighter and simpler textiles to women's 'domestic' production.²¹⁰ The largest majority of the female textile labourers therefore worked at home through a sort of putting-out system organised by merchant contractors. Because women lacked the incorporation into an organisation of production (such as the workshops), women had a weaker professional identity than men.²¹¹ Although the testimonies in the criminal records reveal that women did not necessarily always ply their trades on their own, this gendered labour division likely affected the extent to which socialisation and consequently conflicts occurred between for example co-workers or between employers and employees. It furthermore reminds us that to understand the social dynamics of violence, the spatial environment needs to be taken into consideration.

The gendered geography of violence

Another important issue in the debate on the gendered nature of crime relates to the places in which violence took place. For their conceptualisation, historians of crime have drawn on the scholarship on the relationship between gender and the early modern urban geography. The early historiography on this topic was characterised by a strong emphasis on a gendered divide between the public and private spheres. Based on didactic and prescriptive literature as well as travel descriptions, the idea was put forward that women, because they were secluded and enclosed by moral norms, were typically absent from the public spaces. Dennis Romano's work has been particularly influential for early modern Italy.²¹² As sites of business and politics, he described Renaissance Italy's piazzas, bridges, canals and streets as male spaces, whereas female spaces were thought to have been more confined to the 'home'. Other studies have on the other hand indicated that, especially for non-elite men and women, such a binary divide between public and private spaces was an anachronistic

²⁰⁹ For 1726 it has been calculated that women made up 62 percent of the urban weavers in Bologna, see Guenzi, 'L'identità industriale', 464.

²¹⁰ Palazzi, 'Tessitrici, serve, treccole', 368-369; Guenzi, 'La tessitura femminile', 251-253; Dumont, 'Women and guilds', 7, 9; Terpstra, 'Working the cocoon', 48-49.

²¹¹ Guenzi, 'La tessitura femminile', 252; Groppi, 'Lavoro e proprietà delle donne', 144.

²¹² D. Romano, 'Gender and the urban geography of Renaissance Venice', *Journal of social history* 23 (1989) 339-350.

projection of ideals that did not reflect the complex realities of past everyday lives.²¹³ It is now generally agreed upon that, like men, women regularly used many if not most of the urban spaces, and for various reasons: to attend religious or civic events, to go to church, to work, for recreation and for transgressive behaviour.

In spite of this criticism, the 'domestic space' has continued to be equated with the 'typical female arena', including when violence is concerned. Men are usually seen as being able to navigate between public and private places, committing violence in both realms, while for women it is often the setting of the household that is emphasised.²¹⁴ Various studies on women's lethal violence in the early modern period, have stressed the 'domestic nature' of this violence, stressing that women's conflicts were based on the tensions and conflicts of 'household life and relationships' and that they primarily made 'intimate victims' such as family members and servants, whereas for men this was much more varied.²¹⁵ Explanations as to why this was the case have revolved around early modern women's more restricted social and economic roles.²¹⁶

It would be erroneous to extrapolate this 'domestic character' of lethal female violence to violence as a whole. Indeed, while it is uncontested that women's killings generally took place within the household setting, there is abundant evidence that the much more common acts of non-fatal violence did not. When examining these predominantly petty acts of physical aggression, our perception of the context therefore changes. In early modern Bologna, the vast majority (59 per cent) of female defendants were accused of offending outside the house. Furthermore, both accused male and female fighters victimised non-family or household members, even within the house. Instead, the acts of violence that were

²¹³ Cohen, 'To pray, to work, to hear, to speak', 294; A. Jacobsen Schutte, 'Society and the sexes in the Venetian Republic', in: E.R. Dursteler (ed.), *A Companion to Venetian History, 1400-1797* (Leiden: Brill, 2013) 363; A. Vickery, 'Golden Age to separate spheres? A review of the categories and chronology of English women's history', *The historical journal* 36 (1993) 383-414.

²¹⁴ P. Spierenburg, 'Masculinity, violence, and honor: An introduction', in P. Spierenburg (ed.), *Men and violence. Gender, honor and rituals in modern Europe and America*. (Columbus: Ohio State University Press, 1998) 17; M. Wiener, 'The Victorian criminalization of men' in P. Spierenburg (ed.), *Men and Violence: Gender, Honor, and Rituals in Modern Europe and America* (Columbus: Ohio State University Press, 1998) 207; Boschi, 'Knife fighting in Rome', 144; Walker, *Crime, gender and social order*, 33, 37, 76; C.R. Corley, 'On the threshold. Youth as arbiters of urban space in early modern France', *Journal of social history* 43:1 (2009) 144; Howard, *Crime, communities and authority*, 85-86.

²¹⁵ Howard, *Crime, communities and authority*, 85-86; Kilday, *Women and violent crime*, 53; Spierenburg, 'Masculinity, violence, and honor', 16; Walker, *Crime, gender and social order*, 135; Hufton, 'Women and violence in early modern Europe', 82-84; Beattie, 'The criminality of women', 83-84; J.S. Cockburn, 'Patterns of violence in English society: homicide in Kent, 1560-1985', *Past & Present* 130 (1991) 95.

²¹⁶ Kilday, *Women and violent crime*, 57.

brought to the criminal court's notice were largely communal events in which women sought violent redress for their disputes under the gaze of others.

This rather limited domestic quality of women's violence fits well within the general image of early modern Italian criminal justice, in which the criminal prosecution of intrafamilial and marital violence was relatively uncommon.²¹⁷ Not only did the male head of the household have the right to correct and chastise his subjects (within moderation), matters of the family were also generally not considered to be the business of the criminal court, nor is there much evidence that formal interference was actively sought by the ecclesiastical court. For female violent offenders within the domestic domain, a combination of factors such as the perception of its general unimportance, the assumed habit of dealing with it informally as well as humiliation have been identified as reasons for its underreporting.²¹⁸ The case of apprentice Francesco Vitali – one of the few domestic cases recorded among the *Torrone's* case files – supports this view. When Vitali claimed to have acquired his head wound through an unlucky fall, the surgeon responsible for medicating him deemed his explanation implausible and reported him to the criminal court.²¹⁹ Only days later, after hearing that his wife had taken various items from their house during his hospital stay, he admitted to lying about the cause in his earlier declaration and that it actually had been his wife who had beaten him on the head with a hammer.

TABLE 21. LOCATIONS OF VIOLENCE BEFORE THE <i>TORRONE</i> , CA. 1655-1755				
	Female defendants (N=120)		Male defendants (N=484)	
	#	%	#	%
House	49	41%	79	16%
Street (incl. markets, squares and outside public buildings)	65	54%	228	47%
Inn/tavern	4	3%	70	14%
Shop/workshop	2	2%	76	16%
Church	-	-	29	6%
Misc	-	-	2	0%

Source: Sample 2a and 2b (appendix).
 Calculations based on denunciations and *processi* for (predominantly) all degrees of physical violence as well as verbal aggression and issuances and breaches of the *precepto criminale (de non offendendo)*.

²¹⁷ Cavina, *Nozze di sangue*, 111, 115; Casanova, *Crimini nascosti*, 81. For a more elaborate discussion of the Italian criminal justice system's treatment of domestic violence in a comparative perspective, see M. van der Heijden and S. Muurling, 'Violence and gender in 18th-century Bologna and Rotterdam', *Journal of social history* 51:4 (2018) 695-716.

²¹⁸ Angelozzi and Casanova, *Donne criminali*, 120; Eibach, 'Böse Weiber und grobe Kerle', 680; Beattie, 'The criminality of women', 87.

²¹⁹ ASBo, *Torrone*, 8171-1, f197.

The general reluctance to involve the secular criminal court in these potentially embarrassing matters of the family – experienced by both the authorities and the victims themselves – provides a contextual explanation for the public character of the violence recorded in the criminal court files in Bologna. Studies on towns elsewhere in early modern Europe – Rome, Rotterdam and Scotland – however support the idea that this publicness of most of women’s reported violence was not a Bolognese particularity. For eighteenth-century Scotland, Kilday found that while homicides by women were largely confined to mariticides (the killing of husbands), the overwhelming majority of common assault cases perpetrated by women were in fact committed outside of the domestic sphere, stressing its communal character.²²⁰ Indeed, in Rotterdam’s eighteenth-century so-called fight books almost all (95 per cent) of the female aggressors acted outside of the home.²²¹ Finally, in sixteenth- and seventeenth-century Rome, nearly two-thirds of women’s violence that came before the Governor’s court was committed on the city streets and squares that also formed the stage of men’s violence.²²² Since petty violence was much more common than homicide, for women as well as for men, it can be argued that the communal context was much more typical for female violence as a whole than its supposed ‘domestic nature’.

Although both men’s and women’s violence largely took place outside houses, they nevertheless constituted important sites of conflict. With 41 per cent of the violence committed by women occurring in a house (as opposed to male defendants’ 13 per cent), this was particularly true for female fighters. But most of the violence that took place in these houses should not be categorised as private, domestic disputes. As is known, the early modern house was not a private domain in a modern sense of the word, as there was no strict spatial divide between working and living.²²³ Aside from the artisan’s workshops and inns in which families often both worked and resided, the organisation of Bologna’s textile industry furthermore ensured that many of women’s economic contributions were largely made from houses. As a site in which violence erupted, the court records reflect this connection between women’s work and the house. The aforementioned denunciation by

²²⁰ Kilday, *Women and violent crime*, 52, 92.

²²¹ Van der Heijden, ‘Women, violence and urban justice’, 19.

²²² Vasta, ‘Per una topografia della violenza femminile’, 69.

²²³ For an elaborate discussion of public and private spheres in the early modern period, see J. Eibach, ‘Das offene Haus. Kommunikative Praxis im sozialen Nahraum der europäischen Frühen Neuzeit’, *History & Archaeology* 38:4 (2011) 621-664; S. Muurling and M. Pluskota, ‘The gendered geography of violence in Bologna, 17-19th centuries,’ in D. Simonton (ed.), *Routledge history handbook of gender and the urban experience* (Abington: Routledge, 2017) 153-163; E.S. Cohen, and T.V. Cohen, ‘Open and shut: The social meanings of the cinquecento Roman house’, *Studies in the decorative arts* 9 (2001-2002) 61-84; A. Cowan, ‘Gossip and street culture in early modern Venice’, *Journal of early modern history* 12 (2008) 314-315.

Paolo Salani against Orsola concerning the headdresses she made and sold out of her apartment is a notable example of this.²²⁴

Houses furthermore had social functions, which formed important contexts in the eruption of violence. Indeed, the fights reported to the criminal court above all concerned acquaintances and community-members. The 'after-party' of weaver Anna Grilli and her husband is a rather exceptional but telling example of this in-house sociability.²²⁵ On Saturday 6 September 1755, Anna, her unnamed husband, her sister Margarita and some other unnamed women had frequented a tavern nearby their home and around its closing hours, on the fourth hour of the night, her husband decided to invite some of the tavern-goers over to their house for some more drinks. One of the guests who came along was Guido Gennasi. He had already had an altercation with the women before in the tavern. Guido testifies that he had commented on the women who remained outside drinking while Anna's husband went inside – comments that were ignored. In their drunken joviality, the women furthermore spilled wine on him not much later (or more crudely, as he testifies, threw a cup of wine in his face), which disgruntled him. He then describes admonishing the women for their drunken, unladylike behaviour, and commented that it was their level to behave in this way – a reproach that the women again ignored. Being invited over to the house, he took aside Anna's young sister, Margarita, and confronted her while armed with a knife. This enraged the already drunk Anna, who – nicknamed *La diavoletta* (the little she-devil) for a reason – responded by saying her sister was not there to pity him and that she did not tolerate such behaviour, after which she threw a pair of scissors (candle snuffer) across the room, unfortunately missing its target (Guido), into the face of another male guest (Pietro Berti) who was standing in the doorway. While exceptional in her ferocity, also encapsulated in her criminal past which involved whipping a woman in public, Anna's case clearly shows how houses could function in similar ways as taverns – in this case literally as a continuation of a tavern visit – and as contested sites of sociability.

While this functionality of the house remains understudied, the importance of the more 'public' sites of sociability in engendering particularly men's violence has been widely acknowledged.²²⁶ Together, taverns, shops and workshops, and (most commonly the exterior of) churches were the sites of roughly one-third of the recorded violent disputes by male

²²⁴ ASBo, Torrone, 8171-1, fol. 80.

²²⁵ ASBo, Torrone, 8175-2, fasc. 7.

²²⁶ J. Eibach, 'Violence and masculinity', in P. Knepper and A. Johansen (eds.), *The Oxford handbook of the history of crime and criminal justice* (Oxford University Press, 2016) 240; Eisner, 'Long-term historical trends', 119-121.

assailants compared to one-tenth of the female fighters. Though not overly important in quantitative terms, ale-houses have been understood as particularly significant for men and, allegedly, their violent 'performance' of masculinity.²²⁷ With taverns came joking, drinking, smoking, dancing and gambling with peers, and it was these rituals that according to scholars produced masculinity.²²⁸ In his study of the socio-cultural meanings of spaces in eighteenth-century Frankfurt, Joachim Eibach has argued that it was this symbolic meaning of the tavern that made them highly contested spaces. Seemingly trivial conflicts concerning payment of the bill, rude jokes and accusations of cheating in games were therefore always – in some way or another – about honour. An example serves to illustrate this point. Whilst playing the hand game of the Morra, a very fast game infamous for raising tempers, Bartolomeo Boscardini accused fellow player Antonio Marco Pallati of cheating and after a back and forth of insults Bartolomeo was stabbed with a knife.²²⁹ A crucial aspect of most of these brawls was that they were instigated by insults and challenges made in a public place. Recognising that reliability and trustworthiness were regarded as important features of a man's honour and reputation, violence could be an appropriately masculine response to avoid the loss of face in the presence of others.²³⁰

Despite the historiographical tendency to describe taverns in relation to violence as quintessential 'male spaces', the court records do contain examples of women acting aggressively there. The denunciation against Margarita Borsi, a married spinner, made to the *Torrone* on 30 September 1754 demonstrates this.²³¹ According to the plaintiff, the Bolognese lumberjack Alessio Corsini, he was sharing a drink with Margarita – whom he assumed to be a prostitute (*donna di mala vita*) – in the *Osteria della Pellegrina* when another man tried to join the two. According to his account, he told the other man to leave them alone, after which Margarita suddenly took out her knife and stabbed him in the face three times. Margarita herself did not deny stabbing Alessio "a few times", but insisted it was because she overheard him telling his three friends that he wanted to take her up to his room. Trying to escape the situation, she walked away, but Alessio grabbed her headdress, slapped, pushed and started choking her and she only stabbed him to liberate herself.

²²⁷ Howard, *Crime, communities and authority*, 76; S. Rau, 'Public order in public space: tavern conflict in early modern Lyon', *Urban history* 34:1 (2007) 102-103; Eibach, 'Böse Weiber und grobe Kerle', 678; Schwerhoff, 'Social control of violence', 229; Rose, *Homicide in North Italy*, 255; S. Amussen, 'Punishment, discipline and power. The social meaning of violence in early modern England', *Journal of British studies* 34:1 (1995) 24-26.

²²⁸ Eibach, 'Böse Weiber und grobe Kerle', 678; F. Nevola, 'Street life in early modern Europe', *Renaissance Quarterly* 66:4 (2013)1337; ASBo, *Torrone*, 8171-1, fol. 49, 157.

²²⁹ ASBo, *Torrone*, 8171-2, fol. 6.

²³⁰ Walker, *Crime, gender and social order*, 37.

²³¹ ASBo, *Torrone*, 8171-1, f23.

Criminal court records like these show that women were indeed present in taverns: sometimes as perpetrators of violence and, arguably more often, as victims (commonly as personnel) and witnesses (as guests). However, scholars like Eibach generally assume that their presence was both quantitatively modest as well as normatively frowned upon.²³² Indeed, as has also been noted for German and English towns, unaccompanied Italian women who visited taverns were looked upon with suspicion, particularly regarding their moral status.²³³ The case of Margarita and Alessio echoes these normative ties, as Alessio automatically assumed she was a prostitute because she was there by herself. The normative restrictions were backed up by many of the Italian cities' criminal by-laws. Although they were not actively enforced, they essentially criminalised women's unescorted mobility in certain places and at certain times. It is therefore no surprise that scholars have argued that women's social lives revolved more around houses – their own and those of others – while men gravitated more towards taverns, piazzas and other open spaces.²³⁴

Similar to taverns, streets, fairs and markets have been recognised as notable contexts for contests about masculine honour and authority.²³⁵ As has been noted for early modern towns, violence in Bologna was above all a 'spectacle of the streets'.²³⁶ Comprising streets, alleyways, squares, street markets and the exterior of public buildings, this space was by no means less important to women than to men. In fact, in proportional terms it was even slightly more prominent among women's reported violent offences (62 per cent) than among men's (49 per cent). The reasons that caused blood to boil on the streets were manifold and ranged from disputes over such issues as property and debts or presumed thieving, the mishandling of shared resources (such as the neighbourhood well), spontaneous social altercations and work-related arguments.

The case against a female market seller nicknamed *La sbirazza* demonstrates that the defence of economic interests was not reserved for men. On 6 August 1755 married market vendor Barbara Romare had herself medicated by a surgeon at Bologna's *Ospedale di Santa Maria della Morte* located near to the city's *Piazza Maggiore*, for a forehead contusion and

²³² Joachim Eibach also found women primarily as victims and witnesses to violence in taverns. See Eibach, 'Böse Weiber und grobe Kerle', 678.

²³³ Ibidem; Prior, 'Private spheres and public records', 61; Angelozzi and Casanova, *Donne criminali*, 104.

²³⁴ Taylor, *Honor and violence*, 141, 176; Howard, Crime, communities and authority, 76-77; Prior, 'Private spheres and public records', 61.

²³⁵ Howard, Crime, communities and authority, 76.

²³⁶ J. Eibach, *Frankfurter Verhöre: städtische Lebenswelten und Kriminalität im 18. Jahrhundert* (Paderborn: Ferdinand Schöningh, 2003) 222; Vasta, 'Per una topografia della violenza femminile', 69; Farge, 'Les théâtres de la violence', 989-992.

various facial abrasions.²³⁷ They were caused by another female market seller – *La sbirazza* – who had pulled her by the hair and dragged her across the piazza while scratching her face with her nails for selling similar wares nearby her stall for too cheap a price. Although these market fights do not carry much quantitative weight among the criminal court records, this kind of violence was typical and representative for women’s socio-economic interwovenness in and importance to the urban economy. As economic actors, whether working in the public market place or at home, women did not shy away from defending their economic interests.

Both male and female fighters thus above all settled their violent quarrels in public, but they did not always choose the same location within the urban space. A closer examination of the representation of the ‘street locations’ in the judicial records indicates that a significant difference between men and women lay within the importance of what can be described as ‘liminal spaces’ for women. Bologna’s criminal court proceedings suggest that a lot of their conflicts occurred not just anywhere in the street, but rather on the doorsteps of their homes, on the threshold, as noted by Christopher Corley in Dijon.²³⁸ Indeed, it is noteworthy that in 41 per cent of the cases (i.e. a notable two-thirds of the ‘street’ category) women declared being just outside their homes when the violence erupted: when entering or leaving their house, when using the shared spaces in the apartment complexes, while standing in the doorway, leaning out of the window and sitting on the doorsteps under the city’s *portico*. The role of these types of locations as descriptive markers in male plaintiff’s reports was more limited (12 per cent in total and 27 per cent of the street category).²³⁹

The following case of two quarrelling neighbours in 1706 is therefore in many ways typical of women’s everyday violence committed in early modern Bologna. On 30 March Anna Cattarina Gaspari made her way to one of the criminal court’s notaries to denounce her neighbour Teresa following a longstanding conflict between the two. Up until then, Anna Cattarina had been insulted daily by Teresa, who on numerous instances called her an adulterous whore even though she, as she asserts, was in fact a *donna da bene*.²⁴⁰ On this day, matters escalated into physical violence after Teresa had become vexed by Anna Cattarina’s dog walking through her vegetable garden. Upon their encounter just outside their houses,

²³⁷ ASBo, Torrione, 8171-2, fasc. 31: “[...] quale venuta meco a contesa a motive della nostra uniforme professione, pretendo essa dassi le mie a troppo vile prezzo [...]”

²³⁸ Corley, ‘On the threshold’, 149.

²³⁹ The meaning of this difference in the description of spaces in relationship to violence will be treated in the next paragraph.

²⁴⁰ ASBo, Torrione, 7608-1, fol. 210-211.

Teresa pelted Anna Cattarina with stones, which did not cause her significant harm because she evaded them and fled the scene.

Violence erupted in places where men and women interacted on a daily basis and the criminal court records suggest that the immediate neighbourhood bore great importance for women - greater than for men. Indeed, it is known that the microcosm of neighbourhood relations functioned as a dense social fabric of interdependencies and reciprocal social control. Most middle or lower class inhabitants of Bologna could not afford to rent or buy their own house and instead lived in apartment complexes with shared courtyards, passageways and entrances to the street. Avoiding those neighbours you are at odds with may have been difficult when sharing these spaces, but even the houses themselves offered little privacy since many people merely rented a room within a house. As in other early modern towns, the close proximity to one another and sharing of resources formed an understandable source of conflict and animosity in Bologna. This contextualised the vast array of neighbourly conflicts that made up the bulk of women's violence before the *Torrone*, motivated by anything from accusations of theft²⁴¹ and taking offence to another woman presumed flirting with one's husband,²⁴² to smaller lingering annoyances²⁴³, gossip²⁴⁴ as well as competition over shared resources and space. The aforementioned wrecking of Teresa's vegetable garden is but one of the many examples of neighbourly petty violence captured in the *Torrone's* court records in which women acted as protagonists.

The significance of the neighbourhood for women's violence is also distinguished for many other early modern towns in Italy, France, Germany, Holland, and England.²⁴⁵ In eighteenth-century Rotterdam, for example, some 30 per cent of the women that came before its lower court for violent acts took place in the neighbourhood, on the sidewalks and streets near their houses.²⁴⁶ Although the different source types and traditions render direct comparisons difficult, it does not appear to be that different from the situation in Bologna, where 41 per cent of the female aggressors were described as being just outside the house. These similarities in the locus of violence in various early modern towns are suggestive of the existence of a broader, shared pattern relating to women's use of the urban space. While

²⁴¹ ASBo, *Torrone*, 8171-1, fol. 117, 147, 177.

²⁴² ASBo, *Torrone*, 8171-1, fol. 64.

²⁴³ ASBo, *Torrone*, 8179-2, fascicolo 2.

²⁴⁴ ASBo, *Torrone*, 8171-1, fol. 36

²⁴⁵ L. Nussdorfer, 'The politics of space in early modern Rome', *Memoirs of the American Academy in Rome* 42 (1997) 162; Roussel, 'La description des violences féminines', 78; Eibach, 'Böse Weiber und grobe Kerle', 679; Van der Heijden, *Women and crime*, 87; Beattie, 'The criminality of women', 83, 87, 102.

²⁴⁶ Van der Heijden, *Women and crime*, 87, 92.

dominant gender norms did not in practice enclose most women inside religious or domestic walls be it in Catholic or in Protestant regions, they may have meant that the lives of women, more so than those of men, unfolded mainly in their neighbourhood streets. The everyday quarrels, brawls and scuffles that found their way into the criminal court records reflect these characteristics.

A comparison of violent offences before the *Torrone* and Rotterdam's lower criminal court during the first half of the eighteenth century has recently revealed both important overarching similarities and indications of differences.²⁴⁷ Similarities between regions and genders were above all found in the profile of the offenders: women were by no means passive accomplices but, like men, mostly acted alone and on their own behalf in their violence against other city dwellers in the public urban space. Importantly, however, Rotterdam's female fighters made up a larger proportion of offenders than in Bologna and it is hypothesised that the locations of women's fights may help explain this discrepancy. Although the geographies of violence were very similar for men and women in Rotterdam, the Bolognese records reveal more distinctly gendered patterns. For male Bolognese fighters, the locations very much resembled those of Rotterdam: 84 per cent of the men accused of committing physical violence before the Bolognese criminal court had fought their quarrels out in the street, on markets and squares, near public buildings, in taverns, and at work-related locations – just like their violent counterparts in Rotterdam. Compared to the general pattern distinguished for Rotterdam and for Bolognese men, it is noteworthy that Bologna's female fighters were comparatively more likely to offend either inside or – above all – in the immediate vicinity of houses than their Rotterdam counterparts. Furthermore, the Bolognese court records suggest that the recorded female fighters of Bologna much more rarely operated in taverns, near public buildings or workshops.

The more distinctly gendered pattern in Bologna may be explained by a combination of socio-economic and legal factors that impacted women's lives in the city. Firstly, in the eighteenth century women's labour within the textile industry was largely concentrated in their homes, while men generally worked in workshops and mills dispersed through the city. Women's labour in Holland and other Western European towns was on the other hand not confined to the house in the same way. Secondly, there are important indications that the spaces for sociability were more gendered. The social world of women seemed to a larger extent to have revolved around houses – their own and those of their friends and family,

²⁴⁷ Van der Heijden and Muurling, 'Violence and gender', 695-716.

while men gravitated more towards taverns, squares and other open spaces. This difference is also found in studies on France and Spain, and is broadly echoed in the court proceedings of early modern Bologna.²⁴⁸ A legal and normative dimension was added to this division by the city statutes that suggested that respectable women should be accompanied to the tavern by male kin, or were otherwise considered to be *donne di mala vita* (supposedly bad women, prostitutes) and could be subjected to punishments ranging from public whipping to exile.²⁴⁹ The built urban environment also contributed to the gendered pattern. While in many other European towns most houses directly faced the street, Italian cities had an architecture that favoured condominiums. Life in these apartment complexes, with their communal facilities, passageways, courtyards and gardens separated from the street by a large door, imposed a notoriously intrusive cohabitation that lay at the basis of many quarrels.²⁵⁰ This especially affected women, since both their work and social lives were centred in these spaces more so than men's.

Importantly, women's movement in the urban public space was in fact regulated by many of Italian cities' legislation. In Bologna, a 1610 general decree restricted women's unescorted mobility after the *Ave Maria* bell at sunset.²⁵¹ Although the policy, like the tavern regulations, targeted prostitutes and those presumed to be prostitutes, women who ventured into the evening streets either alone or in the company of unrelated men became the principal female prey for the policemen patrolling the streets. Respectable women were allowed to walk outside in the dark, but if they were not shepherded by their husbands or male kin they were liable to be treated as courtesans by the men in town as well as by the police. On the one hand these city regulations can be interpreted as a sign that the authorities did actually expect women to be in the streets and there is furthermore little evidence of a strict enforcement of these regulations.²⁵² However, the few arrests of women for *vagare la notte* (wandering the streets at night) found in the court records do illustrate that the gendered expectations presented limitations to women: as it stigmatised if not restricted women's presence and free movement in the urban space.

²⁴⁸ Corley, 'On the threshold', 139-156; Taylor, 'Women, honor, and violence', 1079-1097.

²⁴⁹ Angelozzi and Casanova, *Donne criminali*, 104.

²⁵⁰ Ibidem, 127-128; Muurling and Pluskota, 'The gendered geography of violence in Bologna', 159.

²⁵¹ Cohen, 'To pray, to work, to hear, to speak', 303.

²⁵² Ibidem, 304.

Framing men's and women's violence

Normative perceptions on how men and women should behave also influenced criminality in a different way. The judicial records reflect real as well as fictional differences in how, where and why men's and women's violence was committed. Natalie Zemon Davis was the first to explicitly characterise court testimonies as a mixed genre: first, as a judicial supplication to persuade the courts, and second, as a historical account of past actions or observations. In her *Fiction in the archives*, she describes how supplicants appealing for mercy in sixteenth-century France constructed tendentious versions of their lives and crimes to persuade the king and courts to issue a pardon for their crimes. Through the example of the so-called pardon tales, she scrutinised the fictional qualities of judicial records, i.e. the "forming, shaping and moulding elements: the crafting of a narrative."²⁵³ As such, she made a persuasive case for the examination of texts of crime as a series of narratives that are packaged in a certain way to augment their probative power, directed at pleasing a certain audience. The notion that texts of crime can themselves also be viewed as a series of narratives has since received substantial recognition in international scholarship.²⁵⁴ It is particularly relevant for the study of violence since its punishment was comparatively negotiable.

This fictionalisation did not equate to falsity per se, nor does acknowledging that judicial records were subject to moulding and shaping mean that these sources cannot be used to gain an image of actual fights, as Spierenburg implied.²⁵⁵ In his examination of knife fighting in seventeenth- and eighteenth-century Amsterdam, he contended that there was no "fiction in the archives here" because of the magistrates' careful inquiries, the interrogation of several witnesses and the fact that the interrogation protocols regularly contained different versions of the defendants' confessions. As such, he contrasts the fiction of the archives with "the real story", although he also admitted that the defendants' "strategies certainly played a part."²⁵⁶ However, there is little need to oppose these aspects as they were, according to Zemon Davis and others, two sides of the same coin. Scrutinising prevalent narrative tropes helps both in discerning ideas about appropriate and inappropriate behaviour as well as in determining the strategies used by plaintiffs and defendants in employing them to their advantage.

²⁵³ Zemon Davis, *Fiction in the archives*, 3.

²⁵⁴ For a recent treatment of the narratives in crime texts, see P. Arnade and E. Colwill, 'Crime and testimony: Life narratives, pardon letters and microhistory', *Journal of medieval and early modern studies* 47:1 (2017) 147-166.

²⁵⁵ Spierenburg, 'Knife fighting and popular codes of honor', 106-107.

²⁵⁶ *Ibidem*.

The forming, shaping and moulding occurred at all levels of the criminal process. Zemon Davis' account of the pardon tales describes the defendants' attempts to convince the judge that they should receive a pardon for their crimes. But not only defendants moulded their narratives. Already in the late 1980s Thomas Kuehn cautioned against a naïve reading of court cases without reference to the formative role of the court in the witness testimony.²⁵⁷ He argued instead that legal procedure shaped the testimony of witnesses and, consequently, that the filter of legal rules and terms subtly restructured social realities.²⁵⁸ In a similar vein Edward Muir and Guido Ruggiero have emphasised that both accusations and investigations tried to force the details of an event in the mould of what was required or perceived to be required to designate a specific action as a crime.²⁵⁹

The judicial narrative's mould was not only shaped by perceptions of criminality, but was furthermore constructed along lines of gender and class. The plaintiffs and defendants played decisive roles in this. Notably, Zemon Davis' argues that early moderners, especially the men, could draw upon distinctive understandings intrinsic to their estate.²⁶⁰ From the pardon tales she discerned various different 'anger plots', i.e. the contexts and procedural unfolding of violent escalations, which clustered around the social types of gentleman, artisan and peasant.²⁶¹ While 'peasant tales' often involved either the rivalry of suitors or inheritance, the 'gentleman's tale' revolved around defending his rights as a seigneur and his honour as a gentlemen, while the tales of artisans and tradesmen concern disputes in the realm of work, payment, theft and debt. Although further examination is necessary, it is not difficult to imagine that this typology would also hold for the rest of the criminal court proceedings.

Aside from class, themes and assumptions also clustered distinctly around gender. Ideas about appropriate masculinity and femininity take up an implicit yet fundamentally formative role in the representation of behaviour in the judicial records. For men, notions of culturally demanded retributive violence play an implicit but marked role. One good and almost stereotypical illustration of this is the homicide trial against Nicolo Sgariglia, a *cavaliere* nicknamed *Il Sergente*, who was prosecuted for the murder of another soldier called

²⁵⁷ T. Kuehn, 'Reading microhistory: The example of Giovanni and Lusanna', *The journal of modern history* 61 (1989) 518.

²⁵⁸ *Ibidem*, 515, 519.

²⁵⁹ Muir and Ruggiero, 'Afterword. Crime and the writing of history', 235.

²⁶⁰ Zemon Davis, *Fiction in the archives*, 43.

²⁶¹ *Ibidem*, 38.

Marsilio Tomassini in June 1652.²⁶² Marsilio, who had wounds on the left side of his hand and arm, was found dead just outside the tavern and was brought to the attention of the *Torrone* through a 'secret friend of the court', who informed the *bargello* (chief of police). Figuring out who had committed this murder did not prove to be too difficult, as there had been several witnesses to the act. Although the perpetrator Nicolo could not be found, the witnesses' testimonies speak volumes regarding the motivation behind the fight. Tavern keeper Antonio Santi vividly describes how the offender came into his *osteria* to eat and drink and had an argument with victim Marsilio over a previous altercation with his friend. Marsilio had asked Nicolo why he had bothered his friend, which Nicolo denied doing. Nicolo then asked to speak to Marsilio outside the tavern, saying he would not stand for such accusations, that he was an honourable soldier and demanded 'satisfaction'. Marsilio cursed Nicolo, calling him a *gridone et un ladro*, to which Nicolo responded by saying he was in fact a *galanthomo* and that he was willing to defend this reputation with his sword.²⁶³ He urged Marsilio to retrieve his own sword from inside, saying that he was a pig if he would not fight him, and waited for him. Once outside, the two men drew their swords and started fighting each other. Marsilio received a deadly blow to the head and Nicolo – in absentia – was convicted and sentenced to the galleys for ten years.

The murder case of Marsilio and Nicolo in many ways speaks to the ritualised nature of violence in early modern societies. Although the court records make no explicit mention of it, the circumstances that led to Marsilio's untimely death very much resembled the duels treated extensively in historical literature. It also contains many of the classic ingredients of Zemon Davis' honour-driven 'gentleman's tales'. The dispute started in a tavern, took place between gentlemen who fought each other one-on-one with equal weapons after an encroachment upon the honour of one of them and a challenge to fight outdoors to settle the dispute once and for all. Although concepts of honour in relation to violence are usually discussed at the level of the nobility, it has been argued that they were crucial to individuals of all social levels.²⁶⁴ Notably, Spierenburg has emphasised that the ritualised nature of violence also extended to forms of aggression among the lower orders of society. Until the eighteenth century, much of the knife fighting in Amsterdam followed distinct rules and

²⁶² ASBo, Torrone, 6620, fasc. 3.

²⁶³ A *gridone et un lado* means someone that out of habit shouts very loudly, and a thief.

²⁶⁴ T.V. Cohen, 'The lay liturgy of affront in sixteenth-century Italy', *Journal of social history* 25:4 (1992) 610.

norms and represented a plebeian manifestation of male codes of honour.²⁶⁵ Davis has called this kind of violence ‘popular duels’.

In the Bolognese court records both the ‘equal’ and ‘unequal’ fights among the lower social strata relate to masculine honour in one way or another. The denunciation against Giovanni Cancelli, a tavern boy from Medicina in Bologna’s countryside, underlines that for men of all social stripes violence was an accepted and sometimes even demanded response to an encroachment of their honour. On 10 December 1652, the Bolognese stable master Piero Rovani denounced Giovanni Cancelli for having hit him on the head with a pitchfork in the stable where Piero worked.²⁶⁶ Piero asserted that Giovanni had probably hit him because he had previously intervened in a quarrel between Giovanni and another worker. When interrogated some ten days later, however, Giovanni himself provided quite a different explanation. After asking Piero for a key to one of the stables, Piero had mocked Giovanni and had called him a blind man and a fucking cuckold (*huomo orbo, becco fotuto*) in the presence of another colleague. Angered by this mistreatment, Giovanni hit Piero on the head with the pitchfork. When asked by the court whether he perceived his actions as a criminal offence, he answered that he did not think so, because if Piero had not insulted him, he would not have hurt him either. Indeed, he had only wounded Piero, he stressed again, “for his necessary defence.”²⁶⁷ In this regard, even these supposed unfair fighters seemingly far removed from Spierenburg’s popular duel, appealed to cultural notions of honour and retributive violence to defend their actions. Giovanni portrayed acting violently as inevitable, “because he felt there was no other possibility; he just had to do it.”²⁶⁸

Appeals to the interlinked culture of honour and violence were by no means constant over time, nor were they shared among the entire population. Firstly, that the Bolognese examples were derived from the very first sample period does not seem to have been a coincidence. Spierenburg has, for example, contended that the deadly, ‘honourable’ knife fights in Amsterdam disappeared after around the 1720s in favour of the violence emanating

²⁶⁵ P. Spierenburg, ‘Faces of violence. Homicide trends and cultural meanings: Amsterdam, 1431-1816’, *Journal of social history* 27:4 (1994) 709-711; N. Worden, ‘Public brawling, masculinity and honour’, in N. Worden (ed.), *Cape town. Between East and West* (Hilversum: Verloren, 2012) 197; Spierenburg, ‘Knife fighting and popular codes of honor’, 103-127.

²⁶⁶ ASBo, Torrone, 6620, fol. 171-172, 221-225.

²⁶⁷ Ibidem, fol. 223v: “[...] et vedendome cosi strapazzate, me sapito per li mani quell forcale de ferro et per mia difesa da una sola bastonata al medemo Piero che lo colpi nella testa [...]” and fol. 224r: “[...] non penso d’essere incorso in pena alcuna per havere ferito il sudetto Pier Rovani per mia necessaria difesa, che se lui et Battistino non mi ingiurivano io non l’haverei tocco, ne dato fastido [...]”

²⁶⁸ As cited in Spierenburg, ‘Knife fighting and popular codes of honor’, 105.

from conflicts in intimate relationships.²⁶⁹ Other scholars have also suggested that conceptions of honour changed during the eighteenth century, perhaps lessening the appeal for defendants to refer to it.²⁷⁰ In the Bolognese judicial narratives female fighters, furthermore, never alluded to the necessity to respond physically to an encroachment of their honour. Although the circumstances and contexts in which violence erupted were more often similar than different, women would or could not invoke the same tropes suitable for and useful to men's judicial narratives.

That the testimonies of women regarding violence did not employ the same topoi or tropes as men's is likely to have had a cultural explanation. The first part of this rationale related – again – to the honour code. Various scholars have remarked that early modern Italian women's engagement in aggressive behaviour was neither expected nor desirable from a cultural perspective.²⁷¹ In a very practical sense there were no customary rules for fighting women, and they could not be formally challenged in honourable fights. In terms of defence, women's anger therefore seemed to have few acceptable uses. According to Zemon Davis' account of sixteenth-century France, for a woman, only the exceptional scenarios of genuine self-defence, the defence of her children, property, inheritance or religion could be used to justify her anger erupting into violence.²⁷²

A second part of the explanation lies in literary conventions. It has been remarked that women lacked a dependable set of narrative techniques, as “the general storytelling, Biblical and folktale tradition was ill-supplied with accounts of how women fought.”²⁷³ This made it difficult for women to appeal to these modes to explain their behaviour. While men's violence arose in many of the same contexts of women's – namely that of everyday social interactions – the language of masculine violence permitted the framing of their conflicts in terms of manhood and honour.²⁷⁴ For women, on the contrary, there were significantly fewer conventions to draw on that had any bearing on their violent behaviour.

In their denunciations and testimonies, women therefore had to use different strategies from men. But although there is abundant literature that links women's legal status in Roman law (as the *imbecillitas* or *fragilitas sexus*) to leniency in the prosecution and

²⁶⁹ *Ibidem*, 107, 121.

²⁷⁰ E. Hofman, 'Dikwijls bespied. Sociale controle onder buren in het achttiende-eeuwse Kortrijk', *De Leiegouw* 55 (2013) 38; Spierenburg, 'Masculinity, violence, and honor', 5-7.

²⁷¹ Brackett, *Criminal justice and crime*, 133-134; Spierenburg, 'Knife fighting and popular codes of honor', 118.

²⁷² Zemon Davis, *Fiction in the archives*, 81, 94-96.

²⁷³ *Ibidem*, 101-102.

²⁷⁴ Walker, *Crime, gender and social order*, 97; Zemon Davis, *Fiction in the archives*, 104; Howard, *Crime, communities and authority*, 85.

sentencing of women, there is no consensus on whether or not women actively appealed to their supposed weakness in their defence. Summarising the works of others on various German early modern towns, Joachim Eibach suggested that women appearing before the criminal court presented themselves as weak women, whose disposition was disinclined towards violence.²⁷⁵ Zemon Davis on the other hand found few of these kinds of references. In her examination of the French sixteenth-century pardon tales, female offenders neither pleaded their *imbécillité*, nor did they claim irresponsibility due to their husband's presence or directions.²⁷⁶ While women may in practice have benefitted from judicial paternalism, they do not appear to have actively appealed to these notions in their defence before Bologna's criminal court.

One of the most noticeable gender-specific narratives for women instead related to their use of space and was formed by plaintiffs rather than defendants. In their denunciations female victims of violence invariably portrayed the street as a thoroughfare rather than a space of sociability. They reported walking to and from certain places during the day and evening, particularly to and from mass, but did not appear to congregate with their friends, as men often did. Lined with its distinct porticos, the Bolognese streets were also described as places where men gathered socially. Male plaintiffs reported having become the victims of violence while sitting on benches under the porticos, playing cards, watching puppet plays on the piazza, playing games, or drinking in and around the taverns or the city gates throughout the day and evening. With the notable exception of the plaintiffs who were working on the market or in the city's many *osterie* when they became the subject of violence, the majority of female plaintiffs invariably stated that they were walking to or from home, or church. Otherwise, these women declared that they were standing in doorways, leaning on window sills, sitting on the steps and so forth when they were mistreated.

Both the descriptions of being nearby the house as well as justifiable mobility should be viewed from the perspective of gendered tropes of appropriate behaviour. Indeed, court testimonies were moulded by a combination of the conventions of law and judicial practice as well as by popular discourse and the personal, micro-political interests of the speakers.²⁷⁷ While it is highly unlikely that the women who reported being assaulted strictly used the streets as thoroughfares from and to home, it is nevertheless telling that they chose to frame

²⁷⁵ Eibach, 'Böse Weiber und grobe Kerle', 672.

²⁷⁶ Zemon Davis, *Fiction in the archives*, 84.

²⁷⁷ E.S. Cohen, "'Courtesans' and 'whores'". *Words and behavior in Roman streets*, *Women's studies* 19 (1991) 204.

their use of this space as such. Although it is known that lower- and middle- and arguably even upper-class women used the public urban space for a wide range of purposes, women's uncontrolled presence in it was regarded as threatening.²⁷⁸ That many Italian cities' criminal by-laws implicitly link women's unrestricted movement through the city to prostitution is illustrative of this notion. It should therefore be no surprise that the women who were violated on the streets appealed – as a litigation strategy – to such tropes of women's acceptable presence in the urban space, which did not extend beyond what was necessary, regardless of their actual behaviour. While male defendants referred in their testimonies to violence as a necessary means to defend their honour, those of women remained rather matter-of-fact and commonplace and devoid of such clear appeals. This mundaneness of the descriptions of women's violence has also been observed by scholars working on other regions in early modern Europe.²⁷⁹ Tropes of appropriate feminine behaviour do rise to the surface through the denunciations, in which female plaintiffs framed their presence and mobility in the urban space in terms that presumably strengthened their positions.

Conclusion: Everyday violence and the uses of justice

The violent tenor of everyday life in early modern Italy is undisputed, yet its special position within Europe has gone largely undiscussed. The Italian criminal court records undeniably attest to a pervasive culture of violence that is in some ways in stark contrast to developments elsewhere in Europe. Not only do they expose homicide rates much elevated from those found in more northerly parts of Europe, but also show a clear preoccupation with a broad spectrum of non-fatal violent behaviours. Overall, in Bologna, violence of all sorts made up over three-quarters of the criminal complaints for which an offender was named. These are significantly higher levels than those recorded in Northern European cities, even those brought before the lower summary courts.²⁸⁰ Scholars have commonly linked the prevalence of violence in pre-modern Italy to the enduring cultural importance of a distinctly masculine honour culture, in which men frequently clashed over slights to reputation and status. Combined with presumed restrictive gender roles, the ethics of honour meant that it was neither expected nor desirable for women to engage in aggressive acts.

²⁷⁸ Brackett, 'The Florentine Onestà', 274.

²⁷⁹ Walker, *Crime, gender and social order*, 97; Zemon Davis, *Fiction in the archives*, 101-104.

²⁸⁰ Gray, 'The regulation of violence in the metropolis', 83.

Despite these stringent normative restrictions, in practice violent behaviour was by no means the preserve of men. This chapter demonstrates that this was as much the case in Italy as it was elsewhere in early modern European societies. Although women arguably did not play a substantial role in the lethal violence committed in the city of Bologna, the criminal court records attest to women's ability and audacity in violently confronting their female and male adversaries. Between the mid-seventeenth and mid-eighteenth centuries, urban Bolognese women made up about one-fifth of the violent offenders – a figure similar to that found in other parts of Europe. That women's aggressive behaviour can largely be categorised as 'petty violence' does not invalidate its importance, especially because petty violence was also the most common type of violence committed by men. Indeed, for every recorded homicide in urban Bologna, there were reports of about five serious (non-lethal) injuries and fifteen acts of violence that did not lead to life-threatening wounds. Rather than relying solely on men for the defence of their reputation and interests – as prescribed by the ethics of honour – many Italian women took matters into their own hands. While women's violent behaviour may not have found much cultural encouragement, it was too common to be viewed as an anomaly.

Women's violence in early modern urban Bologna was distinct from men's in some ways but also shared many of its characteristics. Importantly, contrary to women's lethal violence, which was characterised by the realm of the household, the overwhelming majority of the non-fatal violence – that the *Torrone* dealt with was 'public'. Much of the violence reported to the court had been directed against members of their own sex and concerned the brawls that erupted among fellow artisans, peddlers and porters during their daily affairs, arming themselves with whatever items came to hand. Rather than pointing to women's 'enclosed' lives, the reported violent interactions of Bolognese women testify to the full range of women's engagement in social and economic relations in the early modern town. Their experiences were nevertheless undeniably gendered. The criminal court records reveal that women's violence, more so than men's, had often taken place in their immediate neighbourhood and involved their direct neighbours. This chapter has argued that this may well have reflected some gendered socio-economic realities of everyday life concerning women's labour activities and sociability as well as legal constraints that limited women's mobility in the urban space. However, it also seems likely that the mention of these particular kinds of spaces appealed to gendered tropes of appropriate behaviour and spaces, and as such may have been part of a judicial narrative.

Individuals' recourse to the criminal court has been fundamental in shaping the image of historical violence. After all, the Bolognese authorities had only little interest in prosecuting the bulk of the reported violent acts and instead accommodated and generally favoured peace-making practices. As we have seen earlier, this was also the objective of many of the plaintiffs. As such, the verbal and physical aggression recorded in the court records must be viewed from the perspective of conflict resolution, in which men and women used the criminal court as leverage in the small politics of their everyday lives. In seventeenth- and eighteenth-century Bologna, its inhabitants had been exposed to at least hundred years of institutional intrusion. In addition to the widespread culture of violence, both men and women turned to litigation to mediate and settle their personal disputes, to establish personal boundaries and to make individual statements. Italy's early development of judicial and administrative structures had not thwarted its culture of violence and instead, until the judicial reforms of the nineteenth century, saw it go hand in hand with a culture of peace-making. As we have seen in this chapter, women were active in both.

CHAPTER 6. PRACTICES OF THEFT AND ITS PROSECUTION IN A STAGNATING TEXTILE TOWN

On Monday 9 February 1756 dyer Giuseppe degli Agostini made his way to one of the criminal court's notaries to denounce a theft that had occurred at his apartment near Porta Sant'Isaia the day before.¹ He describes having had a pig slaughtered two months previously and keeping six salted pieces in his apartment. After his wife left their apartment door open when they went out, upon their return they found some of their cured ham missing. A trail of salt grains led them to the apartment of one of their fellow tenants, Catarina Benserati. This evidence was presented to Bologna's *Tribunale del Torrone*, and Catarina was brought in for questioning. Catarina, a widowed Bolognese spinner, excused her actions by saying she had walked past the apartment, had seen the meat through the open door and had hidden it in her room – but only as a joke. She claimed she had intended to return it later, but was unable to do since she was incarcerated in the meantime. The case was concluded when, a week later, the ham was returned to Giuseppe, and Catarina was released from custody that same day without a criminal sentence.

While in many ways atypical, this case serves well to illustrate some of the general characteristics and circumstances of the many quotidian thefts in early modern Bologna. For both male and female offenders, thefts from houses by opportunistic neighbours featured prominently among the cases passing through the criminal court. The example, however, also speaks to the specific position that female offenders held before the early modern Italian justice system. While Italian criminal court casebooks above all brimmed with violent altercations, thefts and other property offences did form an increasingly important focus of law enforcement. Yet there is significant evidence that female property offenders like Catarina were disproportionately dismissed of criminal culpability. This chapter, which examines the gendered dynamics of theft in early modern Bologna, therefore aims to shed light on both of these aspects: on the differences and similarities in everyday practices between male and female offenders as well as on the legal attitudes that framed women's encounters with the law in early modern Italy. It argues that the comparatively low share of female property offenders in Bologna was engendered by a pervasive culture of institutionalisation, peace-making and judicial paternalism towards women.

¹ ASBo, Torrone, 8179-2, fasc. 16.

To this end, this chapter will start with a discussion of the legal attitudes towards thieving by the Bolognese authorities. Bologna's local criminal by-laws provide evidence for a continuing hardening of the attitudes towards property offending. They furthermore demonstrate that ideas about the prosecution and punishment of property crime were inherently gendered. The next part discusses various aspects of everyday practices of thieving based on the representative samples of denunciations and *processi* collected from the *Torrone* between the mid-seventeenth and mid-eighteenth centuries. Because of the small number of women in these representative samples, an additional set of theft *processi* involving female offenders has been collected to be able to scrutinise women's involvement in more detail. Based on these sources, this section examines the importance of theft among offenders denounced and prosecuted in early modern Bologna, the role of women in these cases and the judicial treatment in practice, to point out two peculiarities of early modern Italy's legal culture: the pervasive peace-making practices and the significant judicial indulgence towards women's involvement. Following this, the social characteristics of these property offenders will be discussed, suggesting that Bolognese thieves belonged to the working poor that incorporated occasional theft as part of their makeshift economies. The subsequent sections discuss what types of goods were stolen and where they were stolen from, and furthermore attempt to trace the journeys of these stolen goods through the urban environment. They suggest that the differences in practices and treatment of male and female thieves must be understood as existing alongside a wide range of shared behaviours, demonstrating the complexity of the relationship between thieving and dynamics of gender.

Legal attitudes towards theft

Property crimes in early modern Italy have received little scholarly attention, especially compared to elsewhere in Europe. Examinations of Italy's administration of criminal justice reveal the new political regimes' preoccupation with curbing the endemic violence as well as rural banditry rather than thefts and other property offences.² However, from a legal perspective the differences were not as pronounced. Based on legal treatises and theological-ethical debates, Paolo Prodi argued that theft was increasingly conceptualised not only as a sin but also as an infraction of the concrete societal rules about the possession and use of

² See, for example, Tedoldi, *La spade e la bilancia*, 119-135; C. Povolo, 'Aspetti e problem dell'amministrazione della giustizia penale nella repubblica di Venezia, secoli XVI-XVII', in G. Cozzi (ed.), *Stato, società e giustizia nella Repubblica Veneta (sec. XV-XVIII)* (Rome: Jouvence, 1980) 220-236.

goods from the twelfth century onwards.³ Combined with a fundamental change in Christian solidarity regarding poverty, this reconceptualisation led to an expansion of repressive penal legislation concerning crimes against property and the prescription of increasingly heavy punishments for thieves, in Italy and elsewhere in early modern Europe.

In a normative sense, the Bolognese authorities indeed regarded property offences as grave violations of public and private order during the seventeenth and eighteenth centuries. Scholars have contended that criminal courts prosecuted these kinds of offences with great determination, even if the value of the stolen goods was quite small.⁴ In the Bolognese criminal by-laws, the prescribed penalties for property offences – or “theft and other similar offences” (*furto, & altri simili delitti*) – were indeed severe. The *Bando Generale* of 1610, promulgated by Legate Benedetto Giustiniani, prescribes a place in the pillory or whipping combined with banishment for a first-time thief without extenuating or aggravating circumstances. Thefts of great value as well as second-time offenders could, however, be punished by a 10-year sentence to the galleys and the third to death by hanging. With aggravating factors however, death sentences were readily prescribed.⁵

It is generally assumed that the authorities’ attitudes towards crimes against property offences hardened further during the eighteenth century, in Italy and elsewhere in early modern Europe.⁶ Some scholars have argued that for Bologna a growing social concern about the increased unemployment and impoverishment of the city and its inhabitants due to the crisis in the textile industry formed the backdrop to this development.⁷ The criminal by-laws are sources in which such an increasing concern with property offences was most visible. Legate Fabrizio Serbelloni’s 1756 *Bando Generale* is the first heavily revised summation of criminal by-laws since the beginning of the seventeenth century and is viewed as a reflection of the changing penal attitudes in Bologna.⁸ This summation of the criminal by-laws for the first time explicitly discusses the social dangers of theft. The opening paragraphs on theft state that this crime was in some ways considered to be more dangerous than homicide. The reasoning for this was as follows: while homicide was a great evil, it was essentially not repeatable. Theft on the other hand could be repeated endlessly. According to these criminal

³ P. Prodi, *Settimo non rubare. Furto e mercato nella storia dell’Occidente* (Bologna: Il Mulino, 2009) 108, 208-209, 244.

⁴ Angelozzi and Casanova, *Donne criminali*, 243.

⁵ *Bando generale Giustiniano 1610*, 26-29.

⁶ For the situation in England, see Gray, *Crime, prosecution and social relations*, 68; J. McEwan, *Negotiating support. Crime and women’s networks in London and Middlesex, c.1730-1820* (Unpublished PhD thesis, University of Western Australia, 2008) 147.

⁷ Angelozzi and Casanova, *Donne criminali*, 243; Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 142-147.

⁸ Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 219-220.

by-laws, it was the potential frequency that made theft most pernicious to both public and private order.⁹ Although the rigorous punishment of theft may seem cruel and unjust, the document continues, the growing human malice and proclivity for this offence required such sentencing, because without it, it would be impossible to cope with the “impetuous torrent of thieves.”¹⁰

Moreover, compared to the older by-laws, the 1756 *Bando Generale* defines in much more detail what is understood as theft, which categories of indictable property offences are distinguished and what the corresponding sentences were. In these new criminal by-laws the value of the stolen goods, recidivism and aggravating circumstances were key determinants for the severity of the punishment (see table 22). ‘Normal’ theft was called *furto semplice* and consisted of a range of larcenous activities. Aside from the act of stealing itself, it also covered the receiving of stolen goods. In line with juridical opinions elsewhere in early modern Europe, the Bolognese authorities considered receiving stolen goods to be just as bad as stealing itself.¹¹ According to Serbelloni’s *Bando Generale* of 1756, these two acts were treated and punished in the same way, since one could not operate without the other.¹² Three types of receiving actors are distinguished. First, those who had acted in good faith, buying from acquaintances, were not subject to punishment aside from having to return stolen goods without reimbursement of money spent. Those who had acted in ‘bad faith’, for example by buying goods from strangers or at night not only had to return the goods or pay a monetary substitute, but if they sold the goods on they were furthermore liable for prosecution by the criminal court. A third category describes the true accomplices, who faced the same sentences as thieves. For pickpockets (*borsaiolo*) and purse cutters (*tagliaborse*), the same punishment guidelines were prescribed as for thieves.

The category of *furto qualificato* considered aggravating factors that, according to the norms of the 1756 *Bando Generale*, included the use of fake keys, lock picking, climbing walls with ladders or forcing windows or doors open. Even if the value of the stolen goods was relatively low, these kinds of thefts were punishable by death. The criminal by-laws state that this was due to people having no other options to protect their belongings than through

⁹ “L’Omicidio seguito, che sia eg’è certamente un grandissimo male, mà non è di sua natura reiterabile; all’icontra il Furto ha in se questa pessima essenza, e da questa reiterazione seguendono la frequenza diviene perniciosissimo alla pubblica, e privata quiete, e di pessimo esempio.” See *Bando generale Serbelloni 1756*, 39.

¹⁰ Ibidem: “Sembierà a tal’uni queste pena crudele, ed ingiusta [... ma] vedendosi l’umana malizia sempre più accrescersi, ed esser facile, a proclive a questo Delitto, è stato più che necessario esacerbar le pene control il medesimo, senza le quali si renderebbe impossibile di far argine ad un Torronte così impetuoso di Ladri.”

¹¹ K. Callahan, ‘On the receiving end. Women and stolen goods in London 1783-1815’, *The London journal* 37:2 (2012) 106, 108.

¹² Angelozzi and Casanova, *Donne criminali*, 96; *Bando generale Serbelloni 1756*, 53-55.

TABLE 22. SENTENCES FOR COMMON PROPERTY OFFENCES IN THE CRIMINAL BY-LAWS OF 1756			
Category	Condition	Value*	Punishment
'Furto semplice'	First time	<10	Pillory or Strappado
	"	10-50	Lashing
	"	50-100	5 years galleys
	"	100-300	7 years galleys
	"	300-500	10 years galleys
	"	500-1000	Life-long galleys
	"	>1000	Death by hanging
	Second time	Any	10 years galleys
	Third time	<20	Life-long galleys
	"	>20	Death by hanging
	Fourth time	15-20	Death by hanging
'Furto qualificato'	Aggravating circumstances	>10	Death
Swindle	First time	<25, 25-500, >500	Strappado, Lashing, Galleys
	Second/third	Any	5 years galleys
	More times	Any	10 years to life-long galleys
Robbery	Type of good/ time of theft		Life-long galleys to death by hanging
Property damage	Location/ what is damaged		Life-long galleys to death by hanging
Source: <i>Bando generale della legazione di Bologna e suo contado, fatto pubblicare li 12. Ottobre 1756 dall'eminentiss., e reverendiss. sig. cardinale Fabrizio Serbelloni, legato a latere di detta città</i> (Bologna 1756) 40-62.			
* Counted in Roman <i>scudi</i> (1 Roman <i>scudo</i> = 5 Bolognese <i>lire</i>)			

these locks and walls. Their violation was thus interpreted as a public offence against the papal prince who was responsible for the protection of the city and its houses.¹³ Another aggravating factor that is mentioned separately was connected to labour relations. Responding to a perceived need to sanction this particular behaviour, Serbelloni's *Bando Generale* pays specific attention to domestic thefts, i.e. thefts committed by domestic servants or employees. As they were considered deceitful and difficult to defend oneself against, these kinds of thefts were subject to harsher punishments.¹⁴ Compared to the *furto semplice*, the prescribed sentences were always a tier more severe. For example, while a first-time theft of an item worth 50 to 100 lire was prescribed a sentence of 5 years to the galleys in case of a simple theft, a theft of the same value by domestic servants would lead to a 7-year sentence.

¹³ *Bando generale Serbelloni 1756*, 42-43.

¹⁴ *Ibidem*, 44-46; Angelozzi and Casanova, *Donne criminali*, 93.

Although quite specific in the punishments it prescribed per crime category, the criminal by-laws left ample room for the judge's discretion. In the introduction of Cardinal Benedetto Giustiniano's *Bando Generale* of 1610, it is declared that the inviolable laws must be observed by "each person of any sex, status, level, quality or condition."¹⁵ However, early modern justice was tailor made and in Bologna the judge was also explicitly given the discretion to take into account the causes, persons, places, time, the 'quality' and quantity and other mitigating or aggravating circumstances when passing judgement.¹⁶ That factors like age and gender were considered among the 'personal qualities' that could lead to a reconsideration of the prescribed punishments can be observed in the core text of Giustiniano's *Bando Generale*. Being younger than fourteen years old for example exempted offenders from the death penalty for theft, and women were not to be sentenced to three pulls of the cord (*strappado*) for the taking away of possessions from fields or gardens as men were, but rather to three months of incarceration.¹⁷ Similar distinctions can also be observed for other kinds of offences.

Serbelloni's 1756 *Bando Generale* for the first time explicitly mentions sex as a factor of systematic sentence differentiation. By then, these criminal by-laws no longer distinguish appropriate punishments for men and women in the text about the specific crimes itself. Instead, they stress in the introductory remarks that the judge is free to impose judgement on women proportional to their sex, commuting punishments like the galleys and public *strappado* to the more suitable options of confinement, exile or lashing.¹⁸ Understanding how and to what extent the penal norms transcended the theoretical realm and were put into practice thus requires further scrutiny of the criminal court records.

The prosecution and sentencing of property offences in practice

Rather than property crimes, it was violence that constituted the main reason for an encounter with the law in early modern Bologna. As we have examined earlier, the widespread culture of violence and peace-making drew many *bolognesi* to the criminal court.

¹⁵ *Bando generale Giustiniano 1610*, 4.

¹⁶ *Ibidem*, 72.

¹⁷ *Ibidem*, 26, 28.

¹⁸ *Bando generale Serbelloni 1756*, 3-4: "Dichiara, che in tutte, e single disposizione del presente Bando sono comprese le Donne, benchè di esse non se ne veda fatta alcuna espressa menzione, e loggiaceranno alle pene cominate, come se inciascun Capitolo fossero particolarmente nominate, nelli Delitti però a loro convenienti, e possibili a commettersi, e nelle pene altresì proporzionate al lor sesso, mentre rispetto alle pene non convenevoli, come di Galera, Corda in pubblico, e simili, si commuteranno nella Rilegazione, Esiglio, Carcere, Frusta, ed altre ad arbitrio secondo la qualità delle Persone, e circostanze de' fatti."

The authorities were interested in investigating and prosecuting the more serious and lethal forms of violence, but victims of pettier violence also found in the court an important institutionalised forum for conflict resolution. The fact that these violent encounters filled up such large parts of the *Torrone's* casebooks understandably also affected the general image of recorded crime. Table 23 shows the share of property offences among denunciations and investigation dossiers (*processi*) for the city of Bologna between the mid-seventeenth and mid-eighteenth century. It demonstrates that the several hundreds of complaints and the on average 80 criminal investigations concerning property offences each year made up about one-sixth of the denunciations and just over a quarter of the *processi*.¹⁹ These shares seem rather modest compared to those found in towns in northern Europe, where criminal courts were as a rule far more prone to prosecute theft and other property offences.²⁰ However, as has already been discussed, the preponderance of crimes against the person rather than against property seems to have been part of a broader pattern shared among towns in early modern Southern Europe.²¹

Despite constituting a modest portion of the *Torrone's* judicial dealings, theft and other property offences were considered serious threats to public order. The interest in prosecuting property crimes was not only visible in the harsh sentences prescribed by the criminal by-laws, but was also reflected in the increased importance of property offences among the *processi* between the mid-seventeenth and mid-eighteenth century. Among the denunciations 17 per cent of the offenders were accused of property crimes, compared to 26 per cent of the offenders at the level of the *processi*. While some other crimes, such as the petty acts of violence that were so prevalent among the denunciations, were almost never turned into a formal investigation, this was different for property offences. Even if they concerned small-value thefts, it has been argued that the authorities were keen to try to

¹⁹ During the period under investigation, the *Tribunale del Torrone* employed 8 notaries who recorded the denunciations. One of them was the chief-notary who oversaw the others. My samples of the notebooks of one notary per focus year have led me to estimate that the number of denunciations for property crimes must have ranged between 200 and 450 each year. For an average 45% of the thefts reported to the Torrone no suspects were identified, for example because the thefts had transpired at night-time or for other reasons had no witnesses. The indicated number of *processi* here is based on an exhaustive survey of (extant) criminal court investigation dossiers for the five sample years.

²⁰ Noordam, 'Strafrechtspleging en criminaliteit in Delft', 228; *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, March 2015), Tabulating offence category, between 1674 and 1800. Counting by defendant; G. Morgan and P. Rushton, *Rogues, thieves and the rule of law. The problem of law enforcement in north-east England, 1718-1800* (London: UCL Press, 1998) 60; Schwerhoff, *Historische Kriminalitätsforschung*, 116.

²¹ Cohn, 'Women in the streets, women in the courts', 26; Blastenbrei, *Kriminalität in Rom*, 284; Mantecón, 'The patterns of violence in early modern Spain', 254; Abreu-Ferreira, *Women, crime and forgiveness*, 17; Ruff, *Crime, justice and public order*, see figure 1.01 in the introduction, n.p.

locate and prosecute the offenders.²² It was not uncommon for a criminal investigation concerning petty theft to be more elaborate and complex than a homicide trial, in some cases involving dozens of testimonies and hundreds of folios.²³

TABLE 23. THE SHARE OF PROPERTY OFFENCES AMONG DENUNCIATIONS AND <i>PROCESSI</i> , CA. 1655-1755.			
	Among female offenders	Among male offenders	Among total known offenders
Denunciations	11%	18%	17%
<i>Processi</i>	39%	25%	26%

Sources: Sample 1 and 2a (see appendix), counted by defendants.

Interestingly, property offences made up a significant part of the crimes for which women were subjected to a formal investigation. Table 23 shows that there was a discrepancy between the share of property crimes among the denunciations and the *processi* for both men and women, but this was particularly stark for female defendants. At the level of the denunciations, only 11 per cent of the female offenders were accused of having committed a property crime, this number being far outweighed by the denunciations that dealt with some sort of violence. Among the *processi*, however, the share of property offences rose to 39 per cent for female defendants, making it the most important crime category for women at this level. This was most likely not only due to the perceived seriousness of property crimes. After all, the fact that property offences ranked so highly on the types of crimes for which women were investigated was also contingent on the fact that other offences brought before the *Torrone*, such as their violent encounters, were not. The judicial ambiguity that female property offenders faced will be treated more extensively later in this section.

Among the different property offences committed by men and women reported to the *Torrone*, theft figured prominently. Table 24 breaks down the types of property offences found among the denunciations and investigation dossiers between the mid-seventeenth and mid-eighteenth century. These property crimes ranged from violation of the terms of seizure, property damage to animals, trees, shops or houses, to robbery, cutpursing or pickpocketing, swindle and theft. These categories are based on contemporary classifications found in the *processi* themselves. With most of these criminal investigation dossiers, the crime that the defendant was charged for was written down in the right top corner of the front cover. Theft (*furto*) therefore consists of the theft, both achieved and attempted, of goods or animals of

²² Angelozzi and Casanova, *Donne criminali*, 243.

²³ Angelozzi and Casanova, *La giustizia criminale a Bologna nel XVIII secolo*, 143.

values big or small, with or without breaking in, during the day or at night.²⁴ This category furthermore includes the receiving of stolen goods, since neither the criminal by-laws nor the *processi* classifications differentiated between the acts of stealing and receiving.²⁵ The category of theft constituted over three-quarters of the male and female property offenders that came before the *Torrone*.

TABLE 24. TYPES OF URBAN PROPERTY CRIMES BEFORE THE <i>TORRONE</i> , CA. 1655-1755								
	Theft (<i>furto</i>)	Swindle (<i>truffa</i>)	Cutpursing (<i>crumenari</i>)	Robbery (<i>rapina</i>)	Property damage (<i>danno dato</i>)	Violation of seizure (<i>violazione di sequestro</i>)	Misc	Total
Female offenders (N=91)	86%	6%	1%	1%	3%	3%	-	100%
Male offenders (N=583)	76%	5%	1%	11%	3%	1%	3%	100%

Sources: Calculations based on all denunciations and *processi* concerning property crimes from samples 1, 2a, 2b and 3 combined (see appendix), counted by defendants.

The prosecution of property offences was not solely a matter of top-down control. While the authorities had a real interest in prosecuting these kinds of cases, there is substantial evidence that the victims of property crimes also made strategic use of the criminal court. This is perhaps most apparent in the renunciations which will be discussed later, but can also be observed in early stages of these theft cases. The roles of victims and other private individuals in the identification of suspects in the preliminary stages of the criminal process in early modern Europe are well-known.²⁶ In early modern Bologna, the overwhelming majority of the theft cases were brought to the court's attention within a few days after the theft by the victims themselves, rather than through public officials or lawmen. When reporting a theft to a notary of the criminal court, a little over half of the victims already had vague or more concrete suspicions about the identity of the offender. Court records reveal that these accusations were often based on rumours heard in the neighbourhood and sometimes on a personal investigation. In a case from 1705, for example, the widow Orsola Borzaghi initially had no knowledge about who had stolen her two dresses, estimated to be worth about 25 *lire*. After visiting a prison to ask if anyone there had any information, one of the incarcerated women pointed her towards the eighteen year-old,

²⁴ *Bando generale Giustiniano 1610*, 26-28; *Bando generale Serbelloni 1756*, 39-62.

²⁵ Angelozzi and Casanova, *Donne criminali*, 96; *Bando generale Serbelloni 1756*, 53-55.

²⁶ C. Herrup, 'New shoes and mutton pies: Investigative responses to theft in seventeenth-century East Sussex', *The historical journal* 27:4 (1984) 817; Rublack, *The crimes of women*, 28.

unmarried silk weaver Anna Bellisia, whom she then denounced to the *Torrone*.²⁷ Importantly too, the aim of Orsola's excursion was clear. In her denunciation she explains lodging a criminal complaint to the court to have the thief reprimanded and, furthermore, to be reimbursed for the damages.²⁸

Despite this clear interest in finding and prosecuting thieves, the casebooks reveal that both authorities and plaintiffs were only able to do so for a limited number of them. Aside from the offenders recorded in the table above, there were many thefts that for example transpired at night-time or for other reasons had no witnesses. This occurred quite frequently: for about 45 per cent of the thefts among the denunciations no suspects were identified. Even following a formal investigation, at the level of the *processi* about one-fifth of the theft cases still do not record a suspect.²⁹ There is little evidence that this inability to locate a certain share of the culprits was a specificity of the Bolognese or Italian criminal justice system. More than anything they reveal the range and richness of the judicial administration of these criminal court cases.

Among the property offenders that were identified and indicted as part of a formal investigation, a little less than half of the male and female defendants were found guilty. Table 25 shows the sentences issued by the *Torrone's* judges for property offences between the mid-seventeenth and mid-eighteenth centuries. What stands out here is the importance of banishment (*esilio*). Out of the 393 defendants found among the *processi*, nearly a quarter of all defendants were sentenced to be banished from the Bolognese territory for an undetermined amount of time. This seems to be in contrast to the harsher sentences prescribed by Bologna's criminal by-laws. However, banishment was commonly used as an instrument to moderate strict laws and often replaced capital punishments or a sentence to the galleys.³⁰ Based on the registers of people sentenced to death, Angelozzi and Casanova argued that more defendants were sentenced to death for property offences than for any other type of crime in early modern Bologna.³¹ Nevertheless, the sampled Bolognese casebooks reveal that capital punishments for thefts and other property offences was relatively uncommon between the mid-seventeenth and mid-eighteenth centuries.

²⁷ ASBo, *Torrone*, 7602-2, fasc. 26.

²⁸ *Ibidem*, fol. 1v: "Però son comparsa as esporre querela contro chi sarà stato il ladro [...] ad effetto, che sia castigato et io rifatto del danno."

²⁹ This was calculated based on the exhaustive sample of *processi* for the years 1655, 1675, 1705, 1725 and 1755, which include 39 investigations for theft in which no suspect is identified (out of 209 theft cases).

³⁰ Nubola, 'Giustizia, perdono, oblio', 14; Tedoldi, *La spade e la bilancia*, 144, 152; Rose, *Homicide in North Italy*, 132.

³¹ Angelozzi and Casanova, *Donne criminali*, 244.

TABLE 25. REGISTERED SENTENCES FOR PROPERTY CRIMES AMONG <i>PROCESSI</i> , CA. 1655-1755				
	Female defendants		Male defendants	
Capital punishment	-	-	-	-
Exile	10	17%	78	23%
Galleys	-	-	21	6%
Incarceration	4	7%	11	3%
Corporal punishment	-	-	1	0%
Fine	-	-	4	1%
Pardon	5	9%	17	5%
Surety/ <i>precetto</i>	6	10%	48	14%
Cancelled/absolved	17	29%	72	21%
Unknown	16	28%	83	25%
Total	58	100%	335	100%
Source: Combination of the <i>processi</i> from sample 1 and additional <i>processi</i> involving female offenders from sample 3 (see appendix).				

In early modern Italy there was a strong connection between banishment (*esilio*), reconciliation and pardon. In many other regions distinctions were made between lifelong banishments – which entailed the offender losing all civil rights and having his or her possessions confiscated – and temporary banishments from the town, region, province or country for periods of 1 to 50 years.³² In Bologna the convicted suffered exile from the entire legal territory for generally indeterminate periods of time, until he or she was able to make peace with the victim or the victim’s family. After this peace accord had been achieved, offenders could request a pardon for their crimes. Although not systematically recorded by the Bolognese criminal court records, most of the Bolognese property offenders who were pardoned initially received a banishment sentence. The rates of pardon for property crimes were significantly lower than for crimes such as homicide. While nearly 40 per cent of the recorded killers could count on a pardon, this was the case for less than 10 per cent of the property offenders. Nevertheless, the culture of reconciliation played a significant role in how property offences were dealt with in early modern Bologna.

The importance of peace-making procedures is also apparent in the cancellations of *processi*. Over one-fifth of the criminal court investigations for property offences were halted. Reasons for halting an investigation could be the lack of evidence, because the defendant

³² A. Schmidt and J.M. Kamp, ‘Excluding the unwanted? Banishment in early modern cities: Frankfurt am Main and Leiden in the 17th and 18th centuries’ (Unpublished conference paper, Urban History Conference 2016).

was considered innocent, or because a settlement had been reached between the plaintiff and the defendant. The criminal court records suggest that at least half of the cancelled criminal court cases were halted because the complaint had been withdrawn by the plaintiff (*rinuncia*). This generally meant that a peace accord or another kind of agreement had been reached, often involving some form of compensation.³³ Again the proportion of cancelled cases is lower than for various acts of violence, but is nevertheless indicative of the pervasiveness of the culture of peace-making in the criminal justice system.³⁴ Reconciliation appeared to have played an important part in the judicial dealings of both male and female offenders.

More salient gender differences in sentencing can also be discerned. Although the sample size of female property offenders is too small for any real statistical analysis, table 25 reveals some typical differences that have also been observed in other early modern towns.³⁵ A sentence to man the oars of the papal galleys, for example, was reserved for male offenders. Female property offenders, on the other hand, appear to have been somewhat more likely to be incarcerated than their male counterparts. Ideas about the gendered suitability of certain punishments, also reflected in the criminal by-laws, arguably played a role in shaping these patterns. They should also be viewed within the context of the early proliferation of institutions for ‘problematic’ women and girls in Italy following the Counter-Reformation.³⁶ Fearing their potential poverty-driven immorality, a continuum of correctional and charitable institutions – unprecedented in number and scope – sought to help, supervise and correct women in various stages of their lives. The case against domestic servant Maria Cantelli illustrates this cycle of care and control from which she could not escape.³⁷ She was sent out from the workhouse (the *Mendicanti*) where she was residing to work as a domestic servant in a noble house. When her employer wanted her to return to the work house after eight days, Maria fled with some of her employer’s clothing and pearls worth 15 *filippi*. Upon her capture she stated she had resorted to the theft because she had dreaded returning to the workhouse, “where the circumstances and people were so bad.” Despite her plea, she was transported to the *Mendicanti* not long after.

³³ Niccoli, ‘Rinuncia, pace, perdono’, 224.

³⁴ Sara Cucini also observed that theft cases were less frequently halted than those for violence, see S. Cucini, *Législation statutaire et gouvernement pontifical en Italie centrale. Le cas de l’administration de la justice criminelle à Bologna, deuxième moitié du Xve siècle* (Unpublished PhD thesis, Université Paul-Valéry, 2014) 359.

³⁵ King, *Crime and law in England*, 170.

³⁶ Cohen, *The evolution of women’s asylums since 1500*, 3, 8; Terpstra, *Cultures of charity*, 17.

³⁷ ASBo, Torrione, 7859-2, fasc. 51, especially fol. 13r and 16r.

Although the outcomes of the formal investigations of male and female suspects appear very similar apart from these more classic gendered punishment types, there are important signs that women's involvement in property crimes was not always taken as seriously as men's. Overall, women made up 14 per cent of the accused property offenders among the denunciations and only a little over half that (7.7 per cent) at the level of the *processi*. In their examination of early modern Bologna's criminal court dossiers, Angelozzi and Casanova observed a considerable degree of indulgence in the treatment of female property offenders. While women were given harsh sentences for normatively 'female crimes' such as infanticide, female offenders were often absolved before even being formally interrogated if they had one or more male co-offenders in other types of crimes – especially in the case of theft.³⁸ Angelozzi and Casanova concluded that this indulgent 'chivalry' should not be viewed as a display of favour, but rather as paternalism rooted in ideas of women's minority and subordination in every social sphere. Women's involvement was thus often considered irrelevant, regardless of their role in the crime.

That women with male co-offenders might receive little scrutiny from the criminal court for their roles in property crimes becomes apparent from a case that deals with the theft from Elena Leni.³⁹ She complained to the criminal court that clothing and jewellery worth around 300 *scudi* (or 1500 *lire*) had been stolen from her house and accused her husband Pietro Maria Gentili as well as her two tenants: the married couple Marco Antonio and Camilla Alberti. Both the husband and the male tenant were captured by the criminal court's lawmen, held in prison for twelve days and were tortured for a confession through the *corda*. Despite the contradictions in their stories, they insisted on their innocence and the two men were liberated into exile until they were able to receive a pardon several months later. Interestingly, however, despite the fact that all of the evidence seemed to point as much as to Camilla as to the two men, she not only escaped torture but was furthermore released after only a short initial interrogation. That the role of Camilla in this theft – as a young woman in the presence of men – was so readily dismissed is certainly telling of the attitude of the magistrates in the criminal process.

In sum, although property offences were considered grave crimes in early modern Bologna, judicial practice diverged significantly from the letter of the law. The specific functioning of the legal system across the Italian peninsula played an important role in

³⁸ Angelozzi and Casanova, *Donne criminali*, 239, 242; Casanova, 'Crimini di donne, giudici benevoli', 1.

³⁹ ASBo, Torrone, 5674, fol. 301r-352v, 570r-589v, as discussed in Angelozzi and Casanova, *Donne criminali*, 244-246.

bringing about this disparity. The legal culture that accepted and stimulated peace-making efforts so prevalent among cases of violence was also apparent among the judicial dealings of property offences, despite of the importance attached to prosecuting these types of crimes. The prosecution of property offences was furthermore contingent on gender expectations and gendered notions of responsibility, culpability and judicial relevance. As we have seen, this affected not only how property offences were punished but also the extent to which the authorities considered women to be criminal actors in the first place.

Nevertheless, out of the women who were subjected to such a formal investigation by the criminal court, property offences constituted the most important crime category. If and to what extent the circumstances and characteristics of these crimes were gendered therefore deserves further scrutiny. Because of its importance among property offences dealt with by the *Torrone* during the mid-seventeenth and mid-eighteenth centuries, it will be thefts and the related activities of receiving that take centre stage in this examination.

The social profile of thieves and economies of makeshift

Economic conditions and particularly experiences of poverty have played important roles in the scholarly thinking about the contexts of property crimes. The increasing economic deterioration has figured prominently in the scholarship about *antico regime* Italy. A prevailing idea since the 1950s has been that Italy became increasingly poor throughout the sixteenth and seventeenth centuries as economic leadership shifted from the Mediterranean to the north-west Atlantic.⁴⁰ In his work from the late 1980s, Stuart Woolf surmised that this pauperism was reflected in the decline of urban employment, falling levels of consumption, the organisation of institutional charity and the growing exploitation of female and child labour.⁴¹ However, more recent works have argued for regional differentiation and have furthermore shifted this caesura to the eighteenth century. While great cities like Venice lost out in sea transport during the seventeenth century, towns like Bologna endured only relatively mild decline – at least until the mid-eighteenth century, when living standards worsened drastically in Italy due to the decline of real wages and a significant increase of

⁴⁰ For an overview, see A. Cavaterra, 'Economia, povertà e consumi in età moderna', in B. Coccia (ed.), *La quarta settimana: Storia dei bisogni e dei consumi degli italiani che oggi non arrivano alla fine del mese* (Rome: Editrice APES, 2009) 15-25; P. Malanima, 'Urbanisation and the Italian economy during the last millennium', *European review of economic history* 9 (2005) 97-98; Black, *Early modern Italy*, 32-35.

⁴¹ Woolf, *The poor in Western Europe*, 51-53.

price levels.⁴² While the real economic crisis was still to come, Bologna's stagnating textile industry undoubtedly impacted the lives of many underemployed and underpaid inhabitants relying on textile work to make ends meet throughout the seventeenth and eighteenth centuries.

The problem of pauperism was – as far as the Bolognese criminal court was concerned – predominantly one of men. Unfortunately without offering any quantitative backing, Angelozzi and Casanova describe observing an increasing frequency of pickpocketing and small-value thefts as well as cases against male beggars and vagabonds deprived of any credible means of subsistence in the *Torrone's* casebooks, particularly after 1750.⁴³ Interestingly, they found evidence for neither a similar surge in property crimes nor for vagabonding or begging among female offenders. Concerning property crimes, for example, they encountered 30 female offenders (constituting 13.6 per cent of the total number of female offenders) in their samples of *processi* and denunciations from 1671 compared to only 16 (8.6 per cent of all recorded female offenders) in 1775-1779.⁴⁴ While the *Torrone* increasingly dealt with the criminal deeds of men presumably related to their deteriorating economic hardship, this was not the case for women. A partial explanation may be found in the fact that ever since the Renaissance in Italy the answer to women's poverty and the threat of their poverty-driven sexual immorality was institutionalisation rather than criminalisation.

The relationship between poverty and theft prosecutions is not only inconclusive for Bolognese women but has been debated in early modern European historiography more broadly. The results from statistical analyses linking indictments for property offences to price indexes in early modern Europe provide unclear results. Beattie found “a general relationship” between these variables for the late eighteenth-century rural parishes of Surrey and Sussex, but found that the situation for London was more complex.⁴⁵ Neither the massive peaks in indictments for property crimes, nor the long-term trends in the city of London seem to have been related to the development of prices. Similarly, German historians also found no or only marginal evidence for the correlation between rye or bread

⁴² Black, *Early modern Italy*, 35; Guenzi, 'L'identità industriale', 449; P. Malanima, 'An age of decline. Product and income in eighteenth-nineteenth century Italy', *Rivista di storia economica* 12:1 (2006) 111; P. Malanima, 'I consumi in età moderna. Crescita o decline?' in E. Sori and R. Giulianelli (eds.), *Consumi e dinamiche economiche in età moderna e contemporanea* (Napels: ESI, 2011) 44.

⁴³ Angelozzi and Casanova, *Donne criminali*, 71.

⁴⁴ In my own sample of *processi*, 33% of female defendants among the *processi* were accused of property offences in 1655 and 38% in 1755. In Angelozzi and Casanova's sample, this concerned 13.6% of the offenders in 1671 and 8.6% in 1775/9. See table 2 in Angelozzi and Casanova, *Donne criminali*, 73.

⁴⁵ J.M. Beattie, 'The pattern of crime in England 1660-1800', *Past & present* 62 (1974) 91

prices and property offences in sixteenth-century Cologne and eighteenth-century Frankfurt.⁴⁶

The difficulty of finding quantitative evidence for the link between economic hardship and theft has recently been confirmed by Kilday. In her statistical analysis of rural Oxfordshire during the second half of the eighteenth century she set off the variables of wages, prices and weather conditions against the indictment levels for theft to show that the correlations were rather weak. This suggests that while temporary poverty may have been a motivating factor for some to steal, “motives for theft may well have been more closely related to opportunism and acquisitiveness.”⁴⁷ Similar conclusions have recently been drawn for towns in early modern Holland, which also endured crisis in various economic segments during the second half of the eighteenth century.⁴⁸ While the share of property offences rose in some towns, in others such as Leiden (which, like Bologna, endured a significant textile crisis) it did not.

The influence of economic fluctuations on criminal activity was thus noticeable but not straightforward. Bologna’s seventeenth-century criminal records also attest to this. Angelozzi and Casanova, for example, observed a temporary increase in thefts committed by women in the period from 1625-1629. A grain shortage and the rise in bread prices in the city seem like good explanations for this development.⁴⁹ In these crisis years, thefts constituted far higher shares than in the sampled years before and afterwards.⁵⁰ However, for other periods with similar crises this connection is less apparent. When another increase in bread prices in 1671 provoked riots and attacks on bakeries in the city of Bologna, no evidence can be found in the records of the *Torrone* indicating any proportional or absolute increase in the reported thefts among women’s crimes.⁵¹

When the effects of economic fluctuations on property crime are debated, scholars generally agree that the context of theft in the early modern period was generally one of large parts of the population living a hand-to-mouth existence. For this they commonly draw on Olwen Hufton’s concept of the ‘economy of makeshifts.’⁵² Originally devised to

⁴⁶ Schwerhoff, *Köln im Kreuzverhör*, 358-361; Eibach, *Frankfurter Verhöre*, 93-99.

⁴⁷ A.M. Kilday, “Criminally poor? Investigating the link between crime and poverty in eighteenth century England’, *Cultural and social history: The journal of the Social History Society* 11:4 (2015) 521.

⁴⁸ Van der Heijden, *Women and crime*, 74-75.

⁴⁹ Angelozzi and Casanova, *Donne criminali*, 96.

⁵⁰ In their samples of denunciations and *processi* taken together, thefts constituted 6.6% of women’s crimes in 1583-1587 and 13.6 per cent in 1671. See Angelozzi and Casanova, *Donne criminali*, 73.

⁵¹ L. Ferrante, “‘Tumulto di più persone per causa del calo del pane...” Saccheggi e repressione a Bologna (1671, 1677)’, *Rivista storica italiana* 90 (1978) 770-809.

⁵² O. Hufton, *The poor in eighteenth-century France, 1750-1789* (New York: Oxford University Press 1974) 259.

summarise the eighteenth-century French experience of marginality, this concept refers to the wide range of disparate activities and survival strategies that poor commoners employed to support themselves in the face of economic hardship. At first these makeshifts only included economic activities that complemented the often temporary and poorly paid jobs, such as subsistence migration, begging and gleaning. However, as the concept was adopted by others, making shift came to include the numerous and often combined short-term strategies and local resources that ensured the survival of individuals and families, including formal and informal relief as well as various types of marginal criminality such as prostitution and petty theft.⁵³

This overarching notion of makeshift economies is also useful to contextualise the situation in early modern Bologna. Here, as elsewhere in Europe, a combination of need, greed and opportunity occasionally drove its inhabitants to steal in their attempts to make shift.⁵⁴ While the criminal by-laws expressed worry about the repeatability of theft and its effects on public order, only few professional thieves passed through the Italian criminal courts before the nineteenth century.⁵⁵ In early modern Bologna, the criminal court records for example only make occasional references to defendants being repeat offenders or *ladri famosi*. Among over more than one hundred identified offenders of theft in the formal investigation dossiers, only 14 were recorded as having a criminal history.⁵⁶ Since recidivism was an aggravating factor in sentencing, it does not seem very likely that the people whose criminal past was unrecorded in the criminal court dossiers were known to be repeat offenders.

The Bolognese sources furthermore provide little evidence for the incorporation of thieves into larger criminal associations. In cases where stolen wares were sold on, the

⁵³ For an overview of the evolution of Olwen Hufton's concept of the economy of makeshift, see A. Tomkins and S. King, 'Introduction', in S. King and A. Tomkins (eds.), *The poor in England 1700-1850. An economy of makeshifts* (Manchester University Press, 2003) 12-13.

⁵⁴ Brackett, *Criminal justice and crime*, 118; P. Wettmann-Jungblut, "'Stelen inn rechter hungersnodt'". Diebstahl, Eigentumsschutz und strafrechtliche Kontrolle im vorindustriellen Baden 1600-1850' in: R. van Dülmen (ed.), *Verbrechen, Strafen und soziale Kontrolle. Studien zur historischen Kulturforschung* (Frankfurt am Main: Fischer Taschenbuch Verlag, 1990) 154-155.

⁵⁵ J.K. Brackett, 'The Florentine criminal underworld. The underside of the Renaissance', in W.J. Connell (ed.), *Society and individual in Renaissance Florence* (Berkeley: University of California Press, 2002) 301, 308; L. Lacché, *Latrocinium. Giustizia, scienza penale e repression del banditismo in antico regime* (Milan: Giuffrè Editore, 1988); Angelozzi and Casanova, *Donne criminali*, 94, 96; Dean, *Crime and justice in late medieval Italy*, 186.

⁵⁶ In the entire extended sample (derived from samples 2 and 3, see appendix 1) only 16 men and 4 women were described as having previously been in contact with the law for a criminal offence. However, the written court records do not provide systematic information on all offenders, even for those officially indicted by the criminal court and/or incarcerated for questioning. Among the 108 offenders of theft in the *processi* alone, 28 were investigated regarding their previous criminal activities; 14 of them were recidivists.

criminal court actively tried to establish who was involved in the distribution of the stolen goods and whether intermediaries were accomplices in the crime or had acted in good faith.⁵⁷ Nevertheless, while the small percentage of armed robbers commonly offended in small groups, the *Torrone's* criminal court records appear to suggest that the large majority of thieves operated independently. Indeed, for three-quarters of the thefts recorded by the *Torrone* only one offender was accused.⁵⁸ This was the same for male as for female defendants and has also been observed for sixteenth-century Rome.⁵⁹ In the quarter of the cases where the *Torrone* did identify co-offenders, women were more likely to commit thefts in mixed-sex groups (mostly their husbands or other male family members) than in groups with only other women. The opposite is true for men, who more commonly offended in all-male groups. The Bolognese pattern in which women and men largely committed thefts on their own corresponds with those observed in other towns in early modern Europe, where this predominantly unorganised and occasional theft consisted one of the many short-term strategies used to get by.⁶⁰

The most important characteristic for property offenders throughout the mid-seventeenth and mid-eighteenth centuries is that they had some sort of occupation, however menial. Although unemployment appears to have been more common among defendants accused of thieving than for other crimes, the roles of the truly destitute mendicants was limited: out of over a hundred property offenders whose occupational status was recorded, only four were described as poor beggars going around the city asking for money and food. Scholars have referred to this kind of group as the structural poor, i.e. those incapable of earning a living for reasons of age, mortal illness or physical handicap and hence fully dependent on assistance or begging.⁶¹ There are contemporary estimations of Bologna's urban poor for the year 1639, which suggest that a little over two per cent of the Bolognese inhabitants belonged to the category of beggars (*mendicanti, poveri che cercano per la città*).⁶² This means that the share of beggars before the criminal court was roughly equal to their share among the urban population.

While detailed information is lacking for most of the criminal court cases, this sample suggests that it is likely that a significant share of thieves brought before the *Torrone*

⁵⁷ Angelozzi and Casanova, *Donne criminali*, 96; *Bando generale Serbelloni 1756*, 53-55.

⁵⁸ The thefts for which no offender was identified are excluded in this calculation.

⁵⁹ Blastenbrei, *Kriminalität in Rom*, 193.

⁶⁰ Van der Heijden, *Women and crime*, 75-76.

⁶¹ Black, *Early modern Italy*, 105; Woolf, *The poor in Western Europe*, 6.

⁶² L. Ciammitti (et al), 'Fanciulle, monache, madre. Povertà femminile e previdenza a Bologna nei secoli XVI-XVIII', in *Arte e Pietà: I patrimoni culturali delle Opere Pie* (Bologna: CLUEB, 1980) 448.

probably belonged to the large group of the conjunctural poor: consisting of a group of inhabitants that was usually dependent on low wages or casual employment, but could also include artisans, small retailers and petty officials.⁶³ They all found themselves in a fragile equilibrium, could fall easily and repeatedly beneath subsistence level and experienced cyclical poverty. Italian and French case studies have shown that the proportion of the urban poor could include as many as 50 to 70 per cent of all households.⁶⁴ Contemporary estimations of Bologna's urban poor for the year 1639 surmised that the group receiving charitable assistance during Eastern and Christmas consisted of over half of the urban population.⁶⁵ It is unlikely that this share of the working poor diminished during the subsequent period, as the repercussions of the shrinking textile sector and consequent reforms of the production process were felt increasingly by the many textile workers in Bologna.⁶⁶

In general, the occupations of those accused of theft in the Bolognese criminal records represent a broad dissection of predominantly lower-class society. Defendants of both sexes indicate performing a wide range of professions for their livelihoods, albeit on-and-off or underemployed. While some of the accused held esteemed occupations such as civil notaries or worked as skilled master artisans and shopkeepers, most of those involved in theft belonged to the city's large group of textile workers, cobblers, bricklayers, porters, servants and market sellers. The court records shed some light on the precarious nature of their employment. In August 1674 the married woodworker Giovanni Biaccati had stolen two rings and gold earrings worth 21 *lire* from his neighbour's unlocked trunk when he was in her house listening to a violinist playing on the street opposite to her apartment.⁶⁷ A testimony by the culprit's former boss underlines how the irregularity of work drove artisans like Giovanni to other forms of employment. When times were tough and he could not find work in his profession as a woodworker, Giovanni competed for unstable and ill-paid porter jobs. Although the court records did not record Giovanni's perspective because he had fled the city together with his wife, this example clearly illustrates the role of underemployment and cyclical hardship in the lives of early modern *bolognesi* and the temporary alleviation theft could provide.

⁶³ Black, *Early modern Italy*, 105; Woolf, *The poor in Western Europe*, 6.

⁶⁴ Woolf, *The poor in Western Europe*, 6.

⁶⁵ For this calculation I have used Ciammitti et al's data for 1693 and compared them to the 1,701 estimates of the total urban population provided by Bellettini, which was the nearest in time. Compare Ciammitti, 'Fanciulle, monache, madre', 448; Bellettini, *La popolazione di Bologna*, 48.

⁶⁶ Guenzi, 'L'identità industriale', 449, 470-472, 507.

⁶⁷ ASBo, Torrione, 7028-2, fasc. 7.

When we concentrate on the women whose occupational statuses were recorded in the criminal court files sampled, we find similar situations as for men. Female offenders worked as market sellers and domestic servants and performed odd jobs. An important share of these women were active in the textile industry in the less prestigious and poorly paid functions of spinners, weavers, hosiers and seamstresses that relied on the uncertainties of piecework and the capricious supply of work through a kind of putting-out system headed by merchant contractors.⁶⁸ Catarina Benserati, the widow who stole salted pork from her neighbours, for example, described herself as a woman living how god wanted her to through spinning and some charity bestowed upon her by her neighbours.⁶⁹ She was only one example of the broad category of the working poor who lived just above or on subsistence level and attempted to maintain a livelihood through the household's combined labour efforts, occasional charity and, for some, opportunistic theft.

There are some indications to suggest that married locals were prominent among Bologna's thieves. For both male and female property offenders, the criminal court records suggest that over two-thirds were married. Furthermore, fewer than one in seven of the accused property offenders were recorded as being from outside of the Bolognese *legato* and thus as foreigners. These findings go against the dominant historiographical grain that stresses the important link between high mobility, economic vulnerability and thieving. In his well-known contribution on women's criminality in eighteenth-century Surrey, John Beattie for example contrasted the socioeconomic profile of thieving women to those who came before the court for violence. While most of the women accused of crimes against the person were married, prosecutions for theft revolved around single and widowed women.⁷⁰ Similarly, in his examination of the social background of female property offenders in late eighteenth-century London, Peter King found that over two-thirds of them were single or widowed and over half of them were born outside the metropolis.⁷¹ Scholarship on early modern towns in Holland and in Frankfurt am Main has painted a similar picture of young female migrant thieves.⁷²

⁶⁸ Terpstra, 'Working the cocoon', 48-49; Dumont, 'Women and guilds in Bologna', 7, 9; Guenzi, 'La tessitura femminile', 250

⁶⁹ "Io sono una povera donna vecchia che vivo come iddio vuole con filare e con qualche carità che mi viene fatta dalli vicini", ASBo, Torrione, 8179-2, fasc. 16. Also see 6620, fol. 285.

⁷⁰ Beattie, 'The criminality of women', 101-102, 106-107.

⁷¹ P. King, 'Female offenders, work and life-cycle change in late-eighteenth-century London', *Continuity and change* 11:1 (1996) 69, 72, 75.

⁷² Van der Heijden, *Women and crime*, 74; Kamp, 'Female crime and household control', 538.

The character of the source material itself may have contributed to the particular social profile emerging from the Bolognese criminal court records. During the early modern period, the judicial sources' administration of biographical data such as marital status and birth place increased and was progressively standardised, but was still at best patchy by the mid-eighteenth century.⁷³ Especially unreliable was the marital status for men for example, as it was only recorded for about one-fifth of the male property offenders in the sample. The modest sample size of property offenders employed here prohibits us from making any statistically valid claims for either marital status or birth place. Furthermore, although over half of the court records shed light on the birth place of the defendants, the interpretation is ambiguous. While the majority of property offenders were recorded as being 'Bolognese' (*Bononien*), it is not entirely clear whether this only referred to Bologna's urban centre or to the entire legal territory of the *legato*, including a vast terrain of 4,000 square kilometres of its suburban and rural counterparts.⁷⁴ According to Matteo Troila, Bologna's endemic urban population deficit was mainly replenished by the inhabitants from its suburbs, an agricultural zone of between five and twelve kilometres adjacent to the city walls.⁷⁵ More research is necessary to demonstrate whether or not these men and women who were born outside the city were also legally considered migrants by the *Torrone*, as they would have been in many other European towns.

While caution should thus be exercised in interpreting this imperfect source material, these social profiles can also be partly explained by the demographic, social and economic context of early modern Bologna. Firstly, pertaining to the suggested 'localness' of Bolognese property offenders in particular, various studies have asserted that in communities characterised by low migration theft was naturally more commonly committed by non-migrants.⁷⁶ Indeed, for rural Tuscany, it has been argued that theft was linked to a "common misery of a peasantry that always lived on the edge of survival."⁷⁷ The same has been argued for the eighteenth-century *Sénéchaussée* of Libourne in France, where three quarters of reported thefts involved "the more stable members of local society."⁷⁸ For the small textile

⁷³ For female defendants, 57% of the cases include her marital status and 50% a birth place. For male defendants, this was 22% (for marital status) and 58% (for birth place).

⁷⁴ For fifteenth-century Bologna, Sara Cucini observed a relatively fair split between citizens (32%) and those being born in the *contado* (37%) among criminal offenders. 'Only' 21% of the offenders were foreigners (and the provenance of 10% was unknown). See Cucini, *Législation statutaire et gouvernement pontifical*, 369.

⁷⁵ M. Troilo, 'Popolazione e proprietà attraverso le fonti fiscali bolognesi nell'età moderna', *Popolazione e storia* 12:1 (2011) 25.

⁷⁶ Kilday, 'Criminally poor?', 513

⁷⁷ Brackett, *Criminal justice and crime*, 100.

⁷⁸ Ruff, *Crime, justice and public order*, 122.

town of Prato, the large majority of criminal defendants in the eighteenth century also constituted locals who were by and large born in the city.⁷⁹ It is not inconceivable that the thieving population in Bologna, as a middle to large town that did not belong to the important pull areas for temporary migration or agricultural mobility on the Italian peninsula, displayed similar traits.⁸⁰

Scholars have also contended that economic characteristics of towns contributed to the social composition of the men and women appearing before the criminal court. Reflecting on the discrepancy between London's higher and Newcastle's lower shares of single female property offenders, Gwenda Morgan and Peter Rushton hypothesised that the difference may have been related to the distinctive economic life of Newcastle.⁸¹ They suggest that the slow growth of the town and the character of (largely seasonal) employment possibly drove more impoverished married women towards crime. However, that criminal courts in various early modern European towns with similar economic structures and circumstances were preoccupied by an apparently different population of thieves, suggests that other factors than purely economic ones were probably more decisive.

The social composition of property offenders may also have been influenced by social factors relating to the extrajudicial or informal control exerted by households. It is widely accepted that women's crimes all over early modern Europe were more likely to be handled by less formal methods of conflict resolution than men's.⁸² Certain categories of women, such as the generally single domestic servants, are believed to have been extra vulnerable to underreporting to the criminal court as their crimes were probably dealt with within the sphere of the household.⁸³ There are no reasons to believe that Italy was any different, particularly since the *paterfamilias* had considerable legal room to manoeuvre in exercising control over his wife, children and servants.⁸⁴ For Italy it may be argued that this line of reasoning can be extended to the category of single women more broadly. After all, some scholars have emphasised that the importance attributed to women's sexual honour was

⁷⁹ Zuliani, 'Reati e pene nel vicariato di Prato', 312.

⁸⁰ According to Alberto Guenzi, immigration to Bologna, especially to the city, was very modest in the fifteenth century, rarely exceeding 1,000 per year. See A. Guenzi, 'L'immigrazione urbana e rurale a Bologna in una fonte del secolo XV', *Rassegna degli Archivi di Stato* 44 (1984) 149-163; M. Sanfilippo, 'Il fenomeno migratorio italiano: storia e storiografia' in A. Miranda and A. Signorelli (eds.), *Pensare e ripensare le migrazioni* (Palermo: Sellerio, 2011) 245-272; J. Lucassen, *Migrant labour in Europe 1600-1900* (London: Croom Helm, 1987) 259.

⁸¹ Morgan and Rushton, *Rogues, thieves and the rule of law*, 101-102.

⁸² Schwerhoff, *Köln im Kreuzverhör*; Shoemaker, *Prosecution and punishment*, 292; King, *Crime and the law*, 202-10; Gray, *Crime, Prosecutions and social relations*, 9, 170-1; Dinges, 'The uses of justice', 159-75.

⁸³ Beattie, 'The criminality of women', 94; Kamp, 'Female crime and household control', 543.

⁸⁴ Cavina, *Nozze di sangue*, 25; Arru, 'The distinguishing features of domestic service in Italy', 556; Sbriccoli, 'Deterior est condicio foeminarum', 83-84.

above all channelled into households' and institutions' attempts to control the movements of unmarried women.⁸⁵ That married women were so well represented among Bologna's thieving population may have been due to the notion that married women were able to move more freely through Italian cities than single women could, exposing them to more opportunities for theft.

Although the socio-economic characterisations leave much room for further thought, most of Bologna's thieves appear to have belonged to the large group of the city's working poor. Their often ill-paid and irregular labour activities were merely complemented by theft, if the opportunity presented itself, as part of their economy of makeshifts.⁸⁶ In this sense, the situation in Bologna very much reminds us of accounts of other early modern towns. It was furthermore largely comparable for male and female property offenders. The next paragraphs will explore the relationship between thieving, the physical and social urban landscape and dynamics of gender in more detail.

Stolen goods

In the early modern period as much as nowadays, what goods were stolen depended on the opportunities that people had for thieving. Theft and consumer culture are therefore closely interlinked. Some prominent scholars have emphasised that the history of changing patterns of consumption should be traced back to the Italian Renaissance. It is commonly held that in Italy the globalisation of trade networks occurred centuries earlier than in Northern European regions, bringing, from the eleventh century onwards, new material goods such as gems, ceramics, cottons, brocades and Turkish carpets back to Italy and the rest of Europe.⁸⁷ Connected to this, Richard Goldthwaite famously argued that the consumer society was therefore born not in Northern Europe in the seventeenth and eighteenth centuries, but in Renaissance Italy.⁸⁸ Other scholars have questioned the extent to which this consumer culture of Renaissance Italy was able to spread to non-elite segments of the population, if it was sustained throughout the early modern period and furthermore whether this prefigured

⁸⁵ Palazzi, 'Tessitrici, serve, treccole', 374.

⁸⁶ For a recap of criminological theories about the role of employment as either facilitating or halting property crimes, see B. Gallée and J. Ligthart, 'De remmende werking van huwelijk en arbeid op vermogensdelicten. Rotterdam, 1812-1820', *Tijdschrift voor criminologie* 57:4 (2015) 353-367.

⁸⁷ J.M. Ferraro, 'The manufacture and movement of goods', in: J. Jeffries Martin (ed.), *The Renaissance world* (New York 2007) 88; A. Clemente, 'Storiografie di confine? Consumo di beni durevoli e cultura del consumo nel XVIII secolo', *Società e storia* 109 (2005) 591

⁸⁸ R. Goldthwaite, *Wealth and demand for art in Italy, 1300-1600* (Baltimore: John Hopkins University Press, 1993) 16.

the developments in eighteenth-century London or Paris.⁸⁹ After all, most forms of retailing remained remarkably stable in Italy and the growth of a mass market remained absent. Combined with declining wages and increasing price levels, Italy's early modern period is generally discussed not as the seed-bed of 'modern consumer culture' but from the perspective of economic decline.⁹⁰

Nevertheless, scholars have convincingly demonstrated that the structure of consumption in Italy did change significantly throughout the early modern period. The available data suggest that a considerable drop in the consumption of foodstuffs coincided with a significant rise in that of durable goods.⁹¹ Alongside economic indicators, important evidence for a widening demand for consumer goods is derived from probate inventories. Research on these sources reveals an expansion in the number and types of objects held by households across the social spectrum, both in cities in Italy and in the countryside.⁹² Furthermore, the rise of a 'fashion system' increased the demand for certain types of clothing and new accessories such as neckerchiefs.⁹³ Despite the economic decline, the mercer trade in Venice, for example, underwent spectacular growth during the seventeenth century.⁹⁴ Moreover, the second-hand clothing market boomed in all main towns, bringing a great range of attire within easier reach and responding quickly to consumers' changing tastes. For various regions studies have suggested that there was a link between the growing demand for fashionable commodities and the choice of items that were stolen.⁹⁵

Scholars have theorised that patterns of theft did not only reflect consumption patterns, but that they were also contingent on dynamics of gender. In the historiography on

⁸⁹ E. Welch, *Shopping in the Renaissance. Consumer cultures in Italy 1400-1600* (New Haven: Yale University Press, 2005) 4-5, 14; Ferraro, 'The manufacture and movement of goods', 96; Clemente, 'Storiografie di confine', 590-592.

⁹⁰ For an overview, see Cavaterra, 'Economia, povertà e consumi in età moderna', 15-25; Malanima, 'Urbanisation and the Italian economy during the last millennium', 97-98; Black, *Early modern Italy*, 32-35.

⁹¹ P. Malanima and V. Pinchera, 'A puzzling relationship. Consumptions and incomes in early modern Europe', *Histoire & mesure* 27:2 (2012) 198; Malanima, 'I consumi in età moderna', 67.

⁹² P. Hohti, "'Conspicuous' consumption and popular consumers: material culture and social status in sixteenth-century Siena', *Renaissance studies* 24:5 (2010) 660; Malanima and Pinchera, 'A puzzling relationship', 214; R. Ago, *Gusto for things. A history of objects in seventeenth-century Rome* (University of Chicago Press, 2013) 7, 127.

⁹³ C.M. Belfanti and F. Giusberti, 'Clothing and social inequality in early modern Europe: introductory remarks', *Continuity and change* 15:3 (2000) 361-362.

⁹⁴ P. Allerston, 'Meeting demand: Retailing strategies in early modern Venice', in B. Blondé, E. Briot. N. Coquery and L. van Aert (eds.), *Retailers and consumer changes in early modern Europe. England, France, Italy and the Low Countries* (Tours: Presses Universitaires François-Rabelais, 2005) 170, 182; Belfanti and Giusberti, 'Clothing and social inequality in early modern Europe', 361, R.T. Rapp, *Industry and economic decline in seventeenth century Venice* (Cambridge: Harvard University Press, 1976) 103; R. Mackkenney, *Tradesmen and traders. The world of guilds in Venice and Europe, c.1250-c.1650* (London: Croom Helm) 90-97, 102-111.

⁹⁵ B. Lemire, 'The theft of clothes and popular consumerism in early modern England', *Journal of social history* 24:2 (1990) 258; Beattie, *Crime and the courts in England*, 187; Hufton, *The poor in eighteenth-century France*, 259; M. Vanbellinghen, 'Diefstal en heling van kleding en textiel: Antwerpen, 1775-1785', *Tijdschrift voor sociale geschiedenis* 21:4 (1995) 387; Van der Heijden, *Women and crime*, 71-72.

women's involvement in theft, it has often been emphasised that the thefts of men and women differed regarding types of stolen goods, value, venue, mode and motivation.⁹⁶ Various studies have stressed the distinctiveness of women's larcenous activities, tying their thefts to their traditional association with providing food for the family and direct household consumption.⁹⁷ A notable example of this is Barbara Hanawalt's study of female felons in fourteenth-century England dating from the late 1970s. She argued that women primarily stole grain, clothing and household goods of low value, reflecting the economic interests of women since their preoccupation was with the home.⁹⁸ Since then, various scholars have challenged this binary distinction. Both Walker (for seventeenth-century Cheshire) and subsequently Dean (for late medieval Bologna) have suggested that men and women generally stole the same kinds of items and that the value of these goods was not necessarily lower than that of goods stolen by men.⁹⁹

The types of goods that were stolen in early modern Bologna support the notion that some of the patterns of theft were not as gender specific as was commonly believed. Figure 7 shows the types of goods that were stolen according to the gender of defendants before the *Torrone*. It reveals that clothing, clothing accessories and textiles were among the most commonly stolen items. The category of 'clothing' consisted of items such as capes, coats, busts, skirts, dresses, shirts, stockings and shoes and constituted the largest category of stolen items. The category of 'textiles' includes household linen, raw materials and assorted textiles found around houses and shops. Together, about 37 per cent of the theft cases brought before Bologna's criminal court concerned these kinds of textiles.

The Bolognese criminal court records nuance the distinctiveness of women's theft of linens and old clothing. The prominence of these types of items among their spoils is commonly portrayed as the outcome of women's specific social and economic roles, their prominence in the less formal trading networks of second-hand domestic goods and

⁹⁶ Beattie, 'The criminality of women', 89-96; O. Ulbricht, 'Einleitung. Für eine Geschichte der weiblichen Kriminalität in der Frühen Neuzeit oder: Geschlechtergeschichte, historische Kriminalitätsforschung und weibliche Kriminalität', in: O. Ulbricht (ed.), *Von Huren und Rabenmüttern. Weibliche Kriminalität in der Frühen Neuzeit* (Cologne/Weimar/Vienna: Böhlau, 1995) 19.

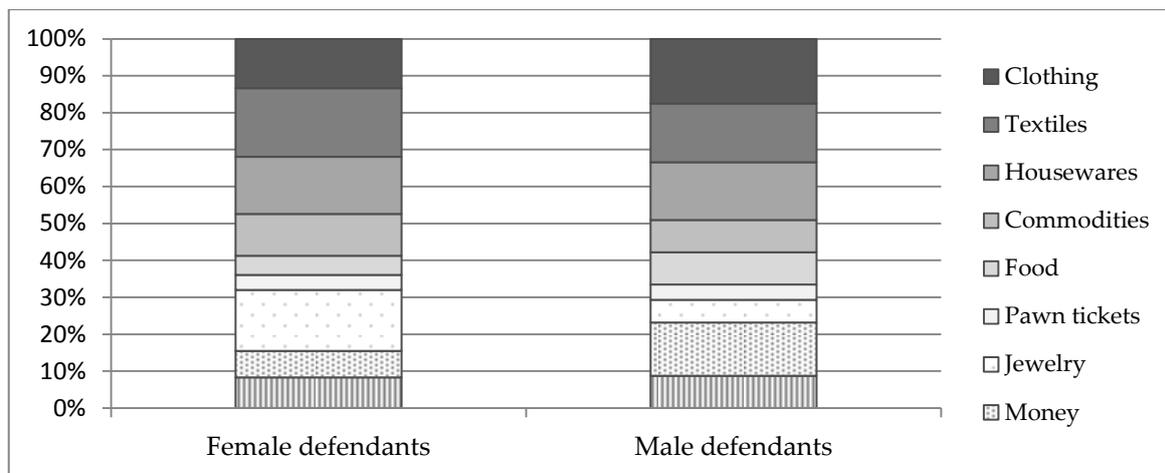
⁹⁷ Spierenburg, 'How violent were women?', 13; McEwan, Negotiating support, 159; J. Philips and A.N. May, 'Female criminality in 18th-century Halifax', *Acadiensis* 31:2 (2002), n.p. Retrieved from <https://journals.lib.unb.ca/index.php/Acadiensis/article/view/10721/11437>.

⁹⁸ Hanawalt, 'The female felon in fourteenth-century England', 262 and Hanawalt, *Crime and conflict*, 122.

⁹⁹ Walker, *Crime, gender and social order*, 159-209; G. Walker, 'Women, theft and the world of stolen goods' in J.I. Kermode and G. Walker (eds.), *Women, crime and the courts in early modern England* (London 1994) 81-105; Dean, 'Theft and gender', 399-415.

pawnbroking and their subsequent knowledge about these types of goods.¹⁰⁰ However, there is little evidence for such a gender distinction in early modern Bologna. The *Torrone's* casebooks suggest that clothing, household linen and a variety of miscellaneous textiles were about as important for female defendants as for their male counterparts. Among both female and male defendants about one-third were accused of stealing these types of goods. The situation laid out by the criminal court records thus provides little quantitative evidence for the notion that the theft of clothing and household linen was a particularly gendered activity in early modern Bologna.

FIGURE 7. STOLEN GOODS BY GENDER OF THE OFFENDER, CA. 1655-1755



Source: Calculations based on the thefts captured in denunciations and *processi* with a total of 56 female defendants and 199 male defendants (sample 2 and 3, see appendix).

- Housewares: e.g. furniture, pots and pans, plates, vases, kettles
- Commodities: e.g. raw materials, metals, building materials, tools and knives

That clothing and textiles were the most common items stolen in Bologna was undoubtedly related to their importance within the early modern material culture and plebeian commercial circuits.¹⁰¹ Probate inventories from seventeenth-century Rome, for example, show that clothing formed the bulk of the possessions of both men and women.¹⁰² Similarly, together with household linens, clothing consisted of the most important category

¹⁰⁰ Walker, 'Women, theft and the world of stolen goods', 88-89, 94, 97; Gray, *Crime, prosecution and social relations*, 76, 89; L. MacKay, 'Why they stole. Women in the Old Bailey, 1779-1789', *Journal of social history* 32:3 (1999) 629, 633; S. Howard, 'Investigating responses to theft in early modern Wales. Communities, thieves and the courts', *Community and change* 19 (2004) 421; Kilday, 'Criminally poor?', 515.

¹⁰¹ Term coined by B. Lemire, 'Plebeian commercial circuits and everyday material exchange in England, c. 1600-1900', in B. Blondé, P. Stabel, J. Stobart and I. van Damme (eds.), *Buyers & sellers. Retail circuits and practices in medieval and early modern Europe* (Turnhout: Brepols, 2006) 245; I. Cecchini, 'A world of small objects: Probate inventories, pawns and domestic life in early modern Venice', *Renaissance and Reformation. Special issue: The material culture of debt* 35:3 (2012) 47.

¹⁰² R. Ago, 'Il linguaggio del corpo' in C.M. Belfanti & F. Giusberti (eds.), *Storia d'Italia. Annali 19. La moda* (Turin: Einaudi, 2003) 120.

of stolen goods Europe-wide.¹⁰³ They were relatively easy to steal and conceal, were very expensive and were among the most sought-after and easily disposable commodities since people outside of the higher ranks largely depended on used garments to clothe themselves.¹⁰⁴ It is therefore assumed that second-hand clothing, whether acquired legally or illegally, therefore had guaranteed value and was assured of sale in early modern economies.¹⁰⁵ In a city like Bologna, in which a large group of its inhabitants worked in the textile industry, this value was apparently recognised by male and female thieves alike.

While the Bolognese criminal court records testify to a great demand for clothing and other textiles, they also reveal a significant demand for a range of other types of goods. Most of these goods were as important to female offenders as to their male counterparts. Domestic goods such as furniture, plates, vases and kettles made up about one-fifth of the goods stolen in early modern Bologna. Despite women's normative association with domestic service, these goods were of equal importance to offenders of both sexes. A range of work tools (hammers, knives, tailor's scissors and so forth), building materials, metals and raw materials are counted among the category of commodities and consisted of one-eighth of the total items pilfered in the city by men and women alike. Similarly, one in twenty thefts concerned pawn tickets for either jewellery, clothing or household linens. Pawns could be redeemed by bringing the funds of the loan and the interest and the copy of the pawn slip (*scrittario*) to the *monte*. As the amount of the loans was usually one-half to two-thirds of the assessed value of the pawn, collecting and selling the pawned objects on the markets could be a lucrative endeavour.¹⁰⁶

There were some differences between the extent to which male and female offenders stole certain kinds of items too. The category of food was more important to male offenders than to their female counterparts. It consisted both of actual foodstuffs such as beans, meats, fish, bread, fruits and agricultural produce such as wheat and grain, and of a range of animals such as chickens, horses, cows, sheep, oxen, goats and donkeys. About one in ten of the male offenders were accused of stealing goods in this category, while this was only the case for one in twenty female thieves. Lastly, money and jewellery were also regularly stolen

¹⁰³ Van der Heijden, *Women and crime*, 71; Walker, 'Women, theft and the world of stolen goods', 87.

¹⁰⁴ Hohti, 'Conspicuous' consumption and popular consumers', 666; Lemire, 'The theft of clothes and popular consumerism', 256-257.

¹⁰⁵ Lemire, 'The theft of clothes and popular consumerism', 265.

¹⁰⁶ M. Carboni, 'Converting goods into cash: An ethical approach to pawnbroking in early modern Bologna', *Renaissance and Reformation. Special issue: The material culture of debt* 35:3 (2012) 71; M.G. Muzzarelli, 'From the closet to the wallet. Pawning clothes in Renaissance Italy', *Renaissance and Reformation. Special issue: The material culture of debt* 35:3 (2012) 25.

but at different levels. Interestingly, jewellery like gold, silver and coral necklaces rings and pearls figured more prominently on the list of goods stolen by female thieves (16 per cent) compared to men (six per cent). The opposite is true for money, which made up 14 per cent of the goods pilfered by male defendants and only half that by their female counterparts.

Although in the past many scholars emphasised the distinctiveness of female thieving, the examination of the stolen goods in the Bolognese criminal court records reveal that a great many similarities defined the character of stolen goods by male and female defendants alike. They are suggestive of a world of production and exchange in which both women and men played important roles. Some differences in what was stolen have been found as well, notably regarding the theft of money and jewellery. A closer look at the court records suggests interesting contextual differences between these two types of cases. Both jewellery and money were commonly derived from trunks and cupboards at home by the victims' neighbours or acquaintances. However, in just over half of the cases money was also stolen from other types of places: in night-time streets, from taverns and from shops, commonly by men whom the victims did not know or did not know well. Thus, while the difference between what men and women stole should not be overstated, it is imperative to examine the extent to which the spatial and social contexts of thieving were gendered.

The geography of theft

Scholars generally agree that the criminal activities of men and women were shaped by the geographic and social boundaries of their everyday lives. This has also given rise to the notion that the geographies of theft were distinctly gendered because of the different opportunities that men and women had.¹⁰⁷ In the previous chapter on violence it was argued that the concept of separate spheres has been widely dismissed for the early modern period, as it failed to capture the complexities of quotidian realities in the past.¹⁰⁸ However, while women are believed to have made regular use of most urban spaces alongside of their male counterparts, we have seen that the home and its immediate neighbourhood surroundings figured prominently among the spaces where women's violence erupted. The importance of houses for women's labour in the textile industry and sites of sociability have been proposed as contributing to this phenomenon. While gender norms by no means succeeded in enclosing women inside of domestic walls, there is evidence that both the lives and crimes of women

¹⁰⁷ MacKay, 'Why they stole', 629-630, 633.

¹⁰⁸ Cohen, 'To pray, to work, to hear, to speak', 294; Jacobsen Schutte, 'Society and the sexes in the Venetian Republic', 363.

in Bologna – more so than for men – unfolded mainly within the neighbourhood. This also seems to have been the case for theft.

Bologna’s geography of theft entailed a broad range of ‘public’ and ‘private’ locations: from homes and shared spaces within the apartment complexes, to work shops, markets, mills, granaries, theatres and churches. Theft from residential locations was the most prevalent (see table 26). This most commonly concerned the apartments or rooms that victims rented, and the variety of goods stolen from this residential environment was broad, ranging from clothing, household linen, jewellery and domestic commodities such as furniture, pans and pots, to foodstuffs, money and pawn tickets. Many of these thefts were highly opportunistic, as is shown by the case against Giuseppe Carboni.¹⁰⁹ On 20 February 1725 Giuseppe Carboni was taken for questioning by the chief constable for his involvement in theft. He admitted that he had seized the opportunity to take away two copper vases when his neighbour Marina Landi had left the door to her house unlocked. Similarly, in 1675 Girolama Negrini, a married chestnut seller, had also stolen a large copper vase worth 9 lire when her neighbour Violanta had left her front door open.¹¹⁰ To a lesser degree *bolognesi* also stole from the shared spaces within the apartment buildings, such as clothing hung to dry in courtyards and hallways.¹¹¹ All in all about one-third of all accused male thieves and nearly three-quarters of their female counterparts are reported to have stolen from people’s domiciles. For female offenders, the importance of houses was thus even more prominent than among reported acts of violence.

	Female defendant		Male defendant		Total known		Unidentified offenders ^c	
House ^a	40	74%	62	33%	102	42%	84	41%
Shop	1	2%	51	27%	52	24%	72	35%
Tavern	1	2%	18	10%	19	8%	6	3%
Street/market	6	11%	37	20%	43	18%	26	13%
Public building ^b	6	11%	20	11%	26	11%	18	9%
Total	54	100	188	100%	242	100%	206	100%

Sources: Derived from sample 2a, 2b and 3 (see appendix), counted by defendant.
^a Also includes adjoining gardens, shared apartment hallways and courtyards
^b Includes public buildings and structures such as churches, city gates, theatres, mills, granaries and stables.
^c Represents minimum counts; each case without suspect is counted here as one offender.

¹⁰⁹ ASBo, Torrone, 7869-2, fasc. 26.

¹¹⁰ ASBo, Torrone, 7035, fasc. 3.

¹¹¹ See, for example, ASBo, Torrone, 7044-2, fasc. 2.

The examples recounted underscore the important role of neighbours in theft from houses in early modern Bologna. A prevalent notion for early modern Europe is that many female thieves stole items in the context of their occupation as servants.¹¹² Because they had access to every corner of the house and could easily incorporate thefts in their everyday work routines, their crimes were considered an important breach of trust and were prescribed harsh sentences for domestic theft (*furto domestico*) due to this perceived betrayal.¹¹³ Indeed, when the *shirri* retrieved a bed sheet domestic servant Anna Leandri had stolen from her employer from underneath her mother's bed, it comes as no surprise that this ordeal left him wondering what else she might have taken from him before.¹¹⁴ However, contrary to what both legislation and contemporary anxieties may suggest, domestic servants were by no means in the majority among those stealing from houses. Even among the female defendants accused of stealing from houses, only one in six of them were employed as maidservants in these households. Instead, nearly half of the thieves accused of stealing from houses were identified as fellow tenants and neighbours, like Giuseppe and Girolama. When distinguishing who stole from houses, male and female thieves were not distinctly different.

Workshops, where goods were made and displayed to be sold, took the second place among the most prominent locations of theft. At least a quarter of all reported thefts took place in these places. Sometimes merchandise such as fabric, handkerchiefs, shoes, clocks and weapons were stolen from the display; a window that could be turned into a vending table. This was the case on 22 April 1705, when shoemaker Appolinario Guidi saw a carpenter's apprentice take off with a pair of shoes made from black cow leather he had placed in his shop's display.¹¹⁵ Other times, money or tools were stolen from shopkeepers when they were not looking or had temporarily left the room. Baker Pietro Babina, for example, complained that the two brass makers Gaetano Bovina and Gregorio Gamini had deceived his assistant Giuseppe by claiming that they had lost a buckle mesh in the cellar and asked him to assist Gregorio in finding it.¹¹⁶ When Giuseppe left the shop to do so, Gaetano saw his chance to steal 10 to 12 *paoli*. Most common were night-time break-ins, however, resulting in the theft of anything from textiles, money, pottery, work tools such as

¹¹² For Germany, see Rublack, *The crimes of women in early modern Germany*, 93; for France: C.C. Fairchilds, *Women in early modern Europe, 1500-1700* (Harlow: Pearson Education, 2007) 289; for England: Gray, *Crime, prosecution and social relations*, 89; McEwan, *Negotiating support*, 161, 164-165, 169.

¹¹³ M. Neale, *Property crime in late eighteenth-century Bristol. Contexts of theft in the pre-modern city* (Unpublished PhD thesis, University of Leicester, 2012) 141; Rublack, *The crimes of women in early modern Germany*, 99-100; Fairchilds, *Women in early modern Europe*, 289; *Bando generale Serbelloni 1756*, 44-46.

¹¹⁴ ASBo, Torrione, 8171-2, fasc. 22.

¹¹⁵ ASBo, Torrione, 7608-1, fol. 101.

¹¹⁶ ASBo, Torrione, 8171-1, fol. 265.

hammers, scales and cooking utensils to pieces of furniture. Stealing from shops was decidedly more common for male than for female thieves (27 compared to 2 per cent). This corresponds with what is known for elsewhere in Europe, where cases concerning women's shoplifting only surged from the late-eighteenth century onwards under the influence of the so-called retailing revolution.¹¹⁷

A substantial part of the male thieves stole from other commercial spaces such as markets. Here a wide range of commodities – from foodstuffs and clothing to jewellery and tools – that were generally stolen from the stalls displaying the market seller's wares or from the baskets the street sellers used to transport their goods. Within this context, the victims were often unacquainted with the thieves, who regularly only found out they were missing some of their merchandise after the fact. It was for example only by chance that market seller Maria Annunziata, wife of Domenico Macchiavelli, found out who had stolen a brass scale from her market stall. She did not know who the men who stole from her were, but an acquaintance of hers who saw it happen did recognise local tailor Marco Boni and shoemaker Angelo Nanni as the culprits.¹¹⁸ While none of the women in the sample were accused of stealing from markets, this example underlines that this by no means indicates women's absence from these spaces. Aside from the examples of women's violent encounters in these market places discussed in the previous chapter, their presence as buyers and sellers, as bystanders and victims of theft, was widely recorded in the criminal court records.

Places of sociability such as taverns also provided opportunities for theft. About one in ten of the thefts took place here. As spaces where people gathered to drink, eat and gamble, inebriated visitors commonly lost their capes, money and jewellery to thieving hands in these *osterie*.¹¹⁹ They were also places where travellers received lodging. Because rooms and even beds were shared among strangers, personal items such as clothing and money were relatively easily misappropriated without the security of a locked room or trunk.¹²⁰ When a 65-year-old Franciscan friar spent the night in one of Bologna's taverns, he woke up to find his money missing.¹²¹ He started complaining to the innkeeper that the foreigners in his room must have taken it. When interrogated by the criminal court's notary Agostino Grossi, a former servant from Modena who slept in the same bed as the friar,

¹¹⁷ S.G. Tickell, *Shoplifting in eighteenth-century England* (Unpublished PhD thesis University of Hertfordshire, 2015) 45-46; T.C. Whitlock, *Crime, gender and consumer culture in nineteenth-century England* (London/New York: Routledge 2016) 127-133.

¹¹⁸ ASBo, Torrione, 8171-2, fasc. 15.

¹¹⁹ ASBo, Torrione, 7869-1, fol. 154; 7869-1, fol. 256; 8171-1, fol. 43; 8171-1, fol. 244.

¹²⁰ ASBo, Torrione, 6620, fol. 105; 7028, fol. 133.

¹²¹ ASBo, Torrione, 7028-2, fasc. 15.

admitted that he had stolen the money and had hidden it between the bed sheets to “serve his needs.”¹²²

Guests furthermore stole goods that belonged to the tavern. On 22 August 1705, the proprietor of the *hosteria dei due Gamberi* located near to Bologna’s largest square accused Antonio Romagnoli from Imola of stealing two bed sheets.¹²³ All in all, taverns featured more prominently as settings for thefts by men than for women (10 compared to two per cent). It does not seem unlikely that this may have had something to do with the normative and legal requirement of ‘respectable’ women to be accompanied to the tavern by male kin.¹²⁴ While this again does not mean that women were absent from taverns, their opportunities to steal in these spaces were probably more restricted than men’s. Alternatively, the gendered nature of suspicion may also have meant that women’s thieving in these places was noticed less.

Counted here among various public buildings in Bologna, about one in twenty thefts by both male and female offenders occurred in churches and other religious buildings. Here money, jewellery, clocks and clothing items were stolen from fellow churchgoers, but the theft of books, goblets, paintings and vases from churches and oratories themselves was more important. After climbing the wall of a convent in the inner-city parish of San Isaia, the unemployed Sabatino Stanzani had taken two water vases and a copper washbowl.¹²⁵ Similarly, Carlo Antonio Scagliarino stole a painting from the church of San Stefano after mass.¹²⁶ While everybody was leaving, he hid the painting under his coat and sold it to a seller of used goods for 40 *bolognini*. Finally, about one in twenty thefts had taken place in Bologna’s mills, granaries and stables. On 21 November 1705 Giuseppe Guidazzoli, for example, was accused of entering the granary of Lazaro Sarti through a window during the night and taking away two sacks of wheat.¹²⁷ Other items that were reportedly taken from these places were such commodities as grain and flour, work tools and animals such as horses, cows and calves.

The landscape of theft in early modern Bologna was thus a highly gendered one. What stands out is the overwhelming importance of houses as locations for women’s thefts. About two-thirds of the thefts women were accused of committing in the city of Bologna had occurred from a room, apartment or within the apartment building in which the victim lived.

¹²² “[...] *ad effetto di servirmene e di prevalentemente per li miei bisogni*”

¹²³ ASBo, Torrione, 7608-1, fol. 99.

¹²⁴ Angelozzi and Casanova, *Donne criminali*, 104.

¹²⁵ ASBo, Torrione, 6620, fol. 285.

¹²⁶ ASBo, Torrione, 6609, fol. 25.

¹²⁷ ASBo, Torrione, 7606-1, fol. 279.

While houses also featured prominently among men's geographies of theft, the proportional share of houses was less than half that of women's. Men were also much more likely than women to steal in a wide range of other spaces too, such as the street, markets and taverns. It seems likely that this gendered pattern of thieving reflects the differences in legitimate social and economic opportunities. After all, both women's work and sociability were centred more in these spaces than men's, echoing the importance of the neighbourhood for women's everyday legitimate and illegitimate behaviours.

The distribution of stolen goods

While the overwhelming majority of thieves brought under the criminal court's purview had no known co-offenders, the redistribution of their stolen goods in society had nearly always involved a range of other actors. After all, despite associations between theft and poverty, registered thefts in which direct consumption played a role appear to have been rare. Most of the cases that came before the *Torrone* involved the reselling of goods. Even Maria Resonagli, who describes herself as a poor unfortunate person (*povera sventurata*) who sold her "body to survive", did not intend to consume the chickens she was accused of stealing. Instead, she had planned to sell them to an innkeeper through an intermediary.¹²⁸ On the other hand, just as foodstuffs could be sold rather than eaten, luxury items could be sold to buy bread and wine.¹²⁹ The relationship between theft and economic hardship was thus complex, but some form of commercial exchange played an important role in nearly all cases brought before the criminal court.

It is commonly assumed that there was significant overlap between illegal economic traffic and formal and legal early modern markets.¹³⁰ In the past few decades various scholars have contended that goods were not only largely stolen from but were also redistributed through offenders' ordinary, legitimate social and economic networks.¹³¹ Since the geography of theft in early modern Bologna appears to have differed significantly for male and female offenders, this raises the question of whether the redistribution of stolen goods was also distinctly gendered. To this end, table 27 shows the locations of the sale of stolen goods. Out of my enhanced sample of property offending, only the cases against 66

¹²⁸ ASBo, *Torrone*, 8179-2, fasc. 25.

¹²⁹ ASBo, *Torrone*, 6609, fol. 25; 6620, fasc. 1; 7044, fasc. 11.

¹³⁰ Lemire, 'Plebeian commercial circuits', 245, 254; Lemire, 'The theft of clothes and popular consumerism', 256-257.

¹³¹ Walker, 'Women, theft and the world of stolen goods', 81-105, MacKay, 'Why they stole', 623-639, Callahan, 'On the receiving end', 106-121; Howard, 'Investigating responses to theft', 409-430.

male and 17 female offenders shed light on the commercial journey of the goods that they were accused of stealing.¹³² While the small sample size precludes us from drawing any statistically sound conclusions, these criminal court dossiers nevertheless provide an indication of how stolen goods found their way back into the urban economy of early modern Bologna.

	(Work)shop/ tradesman	Reseller	Pawn bank	Unspecified individuals	Total
Male defendants	25	16	13	12	66
Female defendants	4	5	2	6	17
Total	29	21	15	18	83

Source: Derived from sample 2a, 2b and 3 (see appendix).

For the mid-seventeenth to mid-eighteenth century, the Bolognese criminal court records suggest that workshops and tradesmen were the most important nodes in the redistribution of stolen goods. In about a third of the cases, stolen goods were disposed of through such shops and/or tradesmen. Commonly these concerned commodities they needed and used in their everyday occupation. As such, stolen fabric was turned over to tailors, silver and gold items to goldsmiths, flour to bakers and tin and copper pots and pans to tinsmiths.¹³³ The prominence of these businesses among illegal circuits has also been noted for eighteenth-century Bristol, where victuallers, carpenters, alehouse keepers, silversmiths, blacksmiths and other tradesmen readily (though purportedly unknowingly) purchased stolen property as part of their everyday business.¹³⁴

While shopkeepers and tradesmen were thus important players in the distribution of stolen goods, it is unclear to what degree they were aware of their unlawful origins. In order not to be treated and prosecuted as accomplices, the criminal by-laws stipulated that buyers should always inquire about the origins of both the seller and the goods.¹³⁵ However, in the sampled thefts there is only one example of a coppersmith who refused to buy two copper vases from two *contadini* (farmers) because he wanted to know who the two sellers were exactly as an assurance of good sale.¹³⁶ The court records indicate that it was fairly common to forgo persistent queries. Miller Domenico Ciapelli, for example, ground the grain that the

¹³² My sample includes another 211 theft cases for which it was entirely unknown who the offenders were. These are excluded from this examination as they never reveal information about what happened to the stolen goods.

¹³³ ASBo, Torrione, 6653, fol. 276; 7869-2, fasc. 41; 7028, fasc. 12; 7055, fasc. 1; 7035, fasc. 3.

¹³⁴ Neale, 'Making crime pay in late eighteenth-century Bristol', 445.

¹³⁵ Angelozzi and Casanova, *Donne criminali*, 96; *Bando generale Serbelloni 1756*, 53-55.

¹³⁶ ASBo, Torrione, 6620, fol. 285.

temporarily unemployed bricklayer Gio Batta Consini had stolen, but excused his actions by saying he had not had a clue where Gio Batta had got the grain from because he simply had not asked him.¹³⁷ Gio.Batta then sold the flour on to a baker for three *bolognini*. The baker in turn denied knowing that he had been offered stolen goods, although he also admitted never really inquiring about it. Apparently the court officials were reluctant to convict tradesmen of malicious intent when performing their quotidian commercial activities, as only very few of the sampled Bolognese receivers were found guilty.¹³⁸

Acquiring used goods was a key part of the second-hand dealers, who made up the second most important role in the distribution of stolen goods. In Bologna, about a third of the female thieves and a quarter of their male counterparts disposed of stolen goods through second-hand dealers. Because the vast majority of inhabitants lived a hand-to-mouth existence, the flourishing second-hand markets were pivotal in enabling ordinary people to obtain all kinds of domestic goods that would otherwise have been out of their reach.¹³⁹ Alongside local shopkeepers, a variety of second-hand dealers (*rigattieri, treccole or rivenditori/trici*) were key players in this kind of trade.¹⁴⁰ While these resellers sold a wide range of used goods, clothing and household linen figured prominently among the commercial journeys of stolen goods unearthed by the *Torrone*.

Women played vital roles in these second-hand markets. While the sampled criminal court cases do not suggest a vast difference between male and female offenders in their choice to dispose of goods via a second-hand dealer, their role as distributors appears to have been significant. What share women held among second-hand dealers in early modern Bologna is unknown, not least because second-hand dealers' guilds in most Italian cities excluded women.¹⁴¹ Nevertheless, the repeated decrees of measures seeking to contain and control female sellers do speak to their constant presence in the fabric of urban life.¹⁴²

¹³⁷ ASBo, Torrone, 6609, fasc. 2.

¹³⁸ The sample includes 27 accused men and 7 women for whom it can be deduced from the sources that they played roles as 'receivers of stolen goods'. More buyers of stolen goods were mentioned and interrogated as part of the criminal records, but they were not formally accused. For five of the indicted receivers their faith was unknown, 13 were absolved and nine were bound to re-appear before the court if new information came up. Four men and one woman were pardoned (the original sentences were not always recorded: one man was originally sentenced to 5 years of imprisonment, and a woman to exile). Two men received guilty verdicts and were exiled.

¹³⁹ Hohti, 'Conspicuous' consumption and popular consumers', 660. For an overview of scholarship on this topic from early modern England, France, and Scotland, see P. Allerston, 'Reconstructing the second-hand trade in sixteenth- and seventeenth-century Venice', *Costume* 33:1 (1999) 46.

¹⁴⁰ Hohti, 'Conspicuous' consumption and popular consumers', 659.

¹⁴¹ A. Meneghin, 'The trade of second-hand clothing in fifteenth-century Florence: Organisation, conflicts, and trends', in *Il commercio al minuto. Domanda e offerta tra economia formale e informale. Secc. XIII-XVIII. Selezione di ricerche* (Florence 2015) 328.

¹⁴² Welch, *Shopping in the Renaissance*, 35-36.

Remarkably, about half of the second-hand dealers that had handled the stolen goods investigated by the Bolognese criminal court were women. This is in contrast to the fact that women represented only one in five of the (admittedly few) accused receivers identified by the *Torrone*. The involvement of the other female resellers was limited to providing witness testimonies. This not only sheds light on the prevalence of female resellers in the urban economy of early modern Bologna, particularly in the second-hand clothes markets, but the fact that so many of them were not even indicted – let alone prosecuted – for their role may additionally reveal a certain judicial ‘indulgence’ towards women also observed for female thieves with co-offenders.

A third way to dispose of stolen goods was through pawn banks. Pawn banks emerged from the fifteenth century onwards in towns and cities across central and northern Italy.¹⁴³ Promoted by travelling preachers and run by lay religious groups, they provided low-cost credit to the working poor by allowing the poor to monetise the value stored in their moveable possessions. Bologna’s *Monte di pietà* (literally a ‘mountain of piety’) opened in April of 1473, closed again the year after and, then backed by the ruling oligarchy, was revived in December 1504 as a civic bank with different agencies spread over the city’s quarters, became one of the most successful pawn-broking institutions in Italy.¹⁴⁴ Based on the number of pledges, it has been calculated that there were nearly two pawns per inhabitant in Bologna by the mid-seventeenth century.¹⁴⁵ The majority of customers were artisans, shopkeepers and, above all, low-skilled (day) labourers.¹⁴⁶ While few households had many surpluses of goods, they nevertheless had many pawnables that functioned as a small, material reserve for times of need. As such, by lending on the security of pawns, the pawn banks performed a major countercyclical function in local economies.¹⁴⁷ They also constituted an important node in more illegal circuits of exchange. Between the mid-seventeenth and mid-eighteenth centuries, the *Torrone* was able to trace a little over one in six of the stolen wares back to Bologna’s *monte*.

All in all, the criminal court records highlight the importance of ordinary and legitimate markets for the disposal of stolen goods. In early modern Bologna, workshops and

¹⁴³ N. Terpstra and M. Carboni, ‘Introduction’, *Renaissance and Reformation. Special issue: The material culture of debt* 35:3 (2012) 6; Muzzarelli, ‘From the closet to the wallet’, 23.

¹⁴⁴ Carboni, ‘Converting goods into cash’, 64-65.

¹⁴⁵ *Ibidem*, 66.

¹⁴⁶ *Ibidem*, 78. The ledgers of Tuscan pawn banks paint a similar image, see P. Pinelli, ‘“Illegal” pawns for “immoral” loans; Testing the limits of the Monti di Pietà in late fifteenth-century Tuscany’, *Renaissance and Reformation. Special issue: The material culture of debt* 35:3 (2012) 14.

¹⁴⁷ Carboni, ‘Converting goods into cash’, 64; Terpstra and Carboni, ‘Introduction’, 8.

their tradesmen, second-hand dealers and civic pawn banks played pivotal roles in both legal and illegal commercial activities for both male and female thieves. Unfortunately, the criminal court records were often unable to shed light on the commercial journeys of these stolen goods, for example because the defendants kept denying involvement and there were no witnesses who reported having seen or heard about the stolen goods. Consequently, the limited size of the sample makes it difficult to ascertain if and to what extent the patterns of distribution were as distinctly gendered as the geography of theft appears to have been itself. Although they are outside of the scope of this research, more in-depth examinations of the social networks of thieves may be fruitful. After all, there are ample indications that a significant number of Italian women played vital roles in the distribution of stolen goods, yet by and large escaped scrutiny by the authorities. While women were omnipresent in the criminal court records, gendered notions of culpability may well have clouded their appearance as criminal actors in property offences.

Conclusion: Women's roles in thieving and judicial paternalism

The pattern of reported crime in early modern Italian towns was extensively moulded by its everyday violence, rather than larcenous activities. This can be attributed to the intertwined culture of violence and reconciliation, which drew many *bolognesi* to the court. However, thefts were not infrequent occurrences and, importantly, were by no means considered futilities by either its victims or the authorities. Indeed, while the criminal court records brim with acts of petty violence as part of conflict resolution strategies, thefts of all shapes and sizes were among the 'serious crimes' that the court sought to investigate and prosecute if in any way possible. This overall interest in prosecuting these kinds of crimes is not only apparent in the harsh sentences that the criminal by-laws prescribed, but also in the fact that thefts made up larger shares among the formal investigations (*processi*) than among the denunciations. This was especially true for women, who were above all subjected to a formal investigation not for their acts of violence but for theft.

Women's larcenous activities in early modern urban Bologna was distinct from men's in some ways but also shared many important characteristics. For one, both male and female offenders were by and large accused of committing the same type of offence – simple theft without resorting to violence – and were overwhelmingly committed by only one offender: rather than being confined to the role of accomplices, no less than two-thirds of the female Bolognese offenders committed thefts on their own. They also resembled their male

counterparts in a socio-economic sense. The Bolognese sources suggest that female thieves generally belonged to the large group of the labouring poor who, as textile workers and market sellers, opportunistically resorted to theft to make shift, not unlike their male counterparts. The *Torrone's* casebooks furthermore suggest that what men and women stole – most commonly clothing, household linen and miscellaneous textiles – was not as distinctly gender specific as is often suggested. That the experiences of male and female offending were nevertheless gendered is above all apparent when scrutinising the geography of theft. Just as women's violence predominantly erupted between neighbours in their immediate neighbourhood, no fewer than eight out of ten of women's thefts (compared to 41 per cent of men's) were also committed from houses by neighbours and acquaintances. Again, this seems to echo the importance of the neighbourhood for women's legitimate and illegitimate everyday behaviours.

For early modern Italian towns like Bologna it is furthermore important to highlight the impact of its legal culture on the judicial treatment of theft. This also affected the proportion of women among thieves, which was significantly lower in Italy than it was in many other places in early modern Europe.¹⁴⁸ While crimes against property – however small in value – could rely on more judicial scrutiny than most acts of violence in early modern Italy, the criminal court records reveal that the culture of reconciliation also pervaded the ways thefts were dealt with. While renunciations and pardoning after peace-making were seemingly less often achieved for property offences than for violent crimes, they were nevertheless pivotal to the understanding of how crimes against property were dealt with in early modern Italy. Moreover, the judicial treatment of theft was also highly gendered. Emanating from a body of law that viewed male criminals as the norm, the gendered notions of appropriate and suitable punishments are a straightforward example of this. Where the galleys or torture via the *strappado* were deemed appropriate for offending men, confinement, exile or lashing was regarded as more suitable for their female counterparts. Importantly, there are also substantial signs that the gender bias led to women being treated more leniently in court. Particularly when women acted alongside male co-offenders, they could count on less harsh sentences or were not even indicted at all. The criminal court

¹⁴⁸ Noordam, 'Strafrechtspleging en criminaliteit', 228; *Old Bailey Proceedings Online* (<https://www.oldbaileyonline.org/>, version 7.2, March 2015), Tabulating offence category, between 1674 and 1800. Counting by defendant; Morgan and Rushton, *Rogues, thieves and the rule of law*, 60; Schwerhoff, *Historische Kriminalitätsforschung*, 116.

records furthermore suggest that by far most of the women involved in the distribution of stolen goods into the urban economy were never scrutinised as criminal actors.

Women's involvement in theft was both nebulous and pervasive. As criminal actors in a serious crime, the Bolognese criminal court records suggest significantly smaller shares of women among recorded property offenders than in many other regions in early modern Europe. While the evidence of women's everyday violent behaviours can be traced through women's frequent use of the criminal justice system as a forum for conflict resolution, our image of their involvement in theft is more contingent on the authorities' efforts to investigate and indict them. Alongside a range of factors such as the interlocking semi-charitable institutions aimed at women and the social control exercised by the head of the family, the traces of judicial paternalism further uncover how women in early modern Italy were kept away from the law and the law away from women.¹⁴⁹ Rather than interpreting these silences as proof for early modern Italian women's lack of agency, they more than anything testify to the idea that these unusual suspects only represented a tip of the iceberg.

¹⁴⁹ Sbriccoli, 'Deterior est condicio foeminarum', 83-84.

CHAPTER 7. CONCLUSION

This book started with Ursula Bagliardi's violent attack on her neighbour Barbara Lambertini in 1755. She was one of the many women and men whose transgressions filled the casebooks of Bologna's *Tribunale del Torrione* between the middle of the seventeenth and the eighteenth centuries. Offences like these complicate notions about Italian women's lives. Based on early modern didactic and prescriptive sources, images of seclusion and enclosure are often echoed in general and syntheising discussions about the divergence between the north and the more restrictive south. The criminal court records however reveal Italian women's involvement in property crimes, public order offences and particularly violence to be more pervasive than has commonly been believed. But not all of these behaviours were subjected to a formal criminal investigation or prosecution. The criminal court records themselves provide good indications that early modern Italy's legal culture played a significant role in obscuring women's criminal and deviant behaviours. After all, it is known that recorded crime was not only the result of actual criminality, but was also the outcome of decisions by both the authorities and communities on how to deal with certain behaviours by certain people. How these top-down and bottom-up processes ended up affecting women's recorded crime differed significantly across time and space.

In recent decades a growing body of scholarship has demonstrated that historical patterns of female involvement in crime are far less static and uniform than was previously assumed. Significant differences have for example been observed between rural and urban areas, shares of women in crime being much higher in cities. This has prompted scholars to consider which elements or characteristics of the urban environment engendered criminal behaviour or prosecution. Scholars of early modern England and Holland in particular have argued that the urban environment offered women a wider range of economic opportunities while lacking the communal social control and support networks that kept rural women away from crime or out of the hands of the criminal justice system. According to these studies, their freedom and vulnerability combined with highly institutionalised forms of control brought about particular patterns of crime in urban centres. In a qualitative sense these scholars have observed significant similarities in the character of crimes committed as well as the social profile of their offenders among a range of European cities. Property offences constituted the large majority of recorded crimes for which the oftentimes young, poor, migrant women were prosecuted. Quantitatively the freedom and vulnerability of their

public lives is believed to have led to relatively high levels of female involvement in crime compared to both before and after the early modern period.

However, while this model identifies some distinctive features of urban life, there is an increasing awareness that it does not account for regional variation across different areas of early modern Europe. There are some scattered though meaningful indications that the urban crime patterns in Southern Europe did not adhere to the one described above. The available evidence from pre-modern Italy points to important differences both in terms of incidence and the character of women's recorded crime. First, the share of Italian women among offenders investigated appears to have been significantly smaller than in many Northern European towns. While studies have demonstrated that women could constitute up to 50 per cent of offenders in major cities across northern Europe, several urban Italian samples indicate far lower shares of on average less than ten per cent all throughout the pre-modern period. A second characteristic relates to the types of cases that came before the Italian criminal courts and, in particular, the prominence of violence rather than property offences. A closer examination of the structures and circumstances that influenced variation across time and space is thus imperative to understand women's involvement in recorded crime in a northern Italian town such as Bologna.

The case of Bologna and European patterns of female crime

So far these divergent patterns of women's involvement in crime in Italy and their underlying causes have received only limited scholarly attention, especially for the so-called 'forgotten centuries' after the Renaissance. This book has therefore sought to overcome this lacuna by providing an in-depth examination of the relationship between gender, criminal behaviours and their treatment by the criminal court in seventeenth- and eighteenth-century Bologna. It confirms the comparatively low share of women among offenders investigated as a striking feature of criminal prosecution in early modern Bologna. Between the mid-seventeenth and mid-eighteenth centuries, women comprised about five per cent of those subject to a formal criminal investigation (*processi*) in Bologna. The available data on other towns on the Italian peninsula reveal similarly low shares. While the early modern period marked a peak for women's involvement in crime in better-examined towns in northern Europe, there is little evidence that this trend applied to the Italian peninsula. Although we must be cautious to make generalisations based on this limited data, there are no known examples of female crime shares (based on formal indictments) remotely as high as those found in

other early modern Northern European towns, nor is there much evidence for a rise of these shares during the seventeenth and eighteenth centuries.

To understand what engendered these comparatively low female crime shares in early modern Bologna it is important to examine what crimes passed through the criminal court process. An important characteristic of pre-modern criminal justice in Italy is the proportional importance of violence among investigated crimes. As in Florence and Rome during earlier centuries, the dockets of Bologna's early modern *Tribunale del Torrione* brimmed with violent acts ranging from insults and blows to stabbings, shootings and murder. Making up 43 per cent of the total caseload of formal investigations at Bologna's criminal court, these predominantly physically violent offences were the most common reason for an encounter with the law. They were followed by a parity of offences against property and public order (26 and 27 per cent), whereas criminal investigations concerning sexual offences were overall much more scarce (three per cent). When viewed alongside of the available data from Spain, Portugal and South-West France, the Bolognese case-study provides further evidence for the existence of southern European pattern of crime and criminal prosecution in which violent offences figured much more prominently than in the northern regions of Europe. This raises the question of the extent to which Italian women's lower share among criminal offenders can be attributed to an alleged culture of violence, which has commonly been linked to the enduring cultural importance of the masculine honour culture in which men frequently clashed over slights to reputation and status, in which women would have no place.¹⁵⁰

Although the pattern of reported crime in the seventeenth and eighteenth centuries was to a large extent moulded by violence, thefts of all shapes and sizes belonged to the serious crimes for which women were predominantly subjected to a formal investigation (39 compared to 33 per cent for violence). In general the authorities' interest in prosecuting these kinds of crimes was apparent in the fact that thefts made up significantly larger portions among these *processi* than among the denunciations, especially for women. Both male and female offenders accused of committing this type of crime generally belonged to the large group of the labouring poor who opportunistically resorted to simple theft of items such as clothing, household linen and miscellaneous textiles without resorting to violence. However, thefts did not only figure so prominently among the criminal investigations against women because of the authorities' great interest in prosecuting crimes against property. After all

¹⁵⁰ Ruff, *Violence in early modern Europe*, 75.

there is significant evidence for the Bolognese magistrates' paternalistic attitude towards women's roles in theft. That property crimes such as theft constituted the largest proportion of crimes for which women were investigated was also highly contingent on the fact that other types of offences – such as their violent encounters – were not.

While both stringent gender norms and the ethics of honour meant that it was neither expected nor desirable for women to engage in aggressive acts, violent behaviour was in practice by no means the preserve of men. That one-third of the female defendants among the *processi* were accused of committing serious physically violent affront already bears witness to this. However, the commonplaceness of women's violent altercations with male and female adversaries is above all apparent in the earlier stage of the denunciation – the moment when either local officials or the wronged individuals themselves denounced a crime to the criminal court. With about nine denunciations to each formal investigation in Bologna, more than 80 per cent of the women and two-thirds of the men in these far more plentiful denunciations were denounced for violent behaviours. For both men and women, most of these altercations can be categorised as petty physical aggression which by and large directed against members of their own sex and had erupted among their neighbours, fellow artisans, peddlers and porters during their daily social and economic affairs, arming themselves with whatever was at hand. Rather than relying solely on men for the defence of their reputation and interests – as prescribed by the ethics of honour – many Italian women took matters into their own hands. Clearly, while women's violent behaviour may have not found much cultural encouragement, it was far too common to be viewed as an anomaly.

To a certain extent these crime patterns reflected gendered socio-economic realities. Importantly, the microcosm of the immediate neighbourhood bore greater importance for women than for their male counterparts as a site of violent conflict as well as for their larcenous activities. Both male and female fighters by and large settled their violent quarrels in public, urban space. Nevertheless, a substantial part of women's violence in Bologna took place just outside of houses: when entering or leaving the house, when using the shared spaces in apartment complexes, while standing in the doorway, leaning out of windows or sitting on a doorstep under one of the city's many porticos. The close proximity and sharing of resources that were a factor not only of daily domestic chores, but also sociability and women's work being concentrated on houses – their own and those of their friends', families' and employers' – fuelled the bulk of women's neighbourly conflicts. The large majority of women accused of theft had also stolen from their neighbours' and acquaintances' houses,

while the geography of men's thieving was much more diverse. While both the social profiles and motives of offenders demonstrate that women's broad socio-economic roles in the urban economy should not be underestimated, the importance of the immediate neighbourhood for women's illicit behaviours reveals a gendered dynamic of women's everyday lives in early modern Bologna. While these dynamics may have in part been the result of a gender-appropriate judicial narrative, they likely also mirrored some socio-economic realities.

The significant discrepancy between 'crime patterns' at earlier and later stages of the criminal process, however, also illustrates the need to scrutinise how social and legal mechanisms affected the share of women in these records. After all, Italian women made up only five per cent of the accused offenders at the level of the formal investigation (*processi*), where property offences as well as serious violence constituted the majority of crimes. At the earlier stage of the denunciations, on the other hand, women constituted over 20 per cent of the offenders who were predominantly accused of petty violence – a figure much more similar to those found in other parts of Europe. This means that it is debatable whether Bologna's comparably low female crime shares can be explained away by its culture of violence. For the Bolognese context this book identifies three underlying mechanisms related to its legal culture that contributed to women's low share among the criminal court records: institutionalisation, judicial paternalism and peace-making practices.

The impact of Italy's institutions and judicial system

Because women have often been overlooked in the study of crime in early modern Italy, the underlying mechanisms that obscured their criminal offending have also received little systematic scrutiny. In an important article, one of Italy's most prominent legal historians, Mario Sbriccoli, reflected on how the legal system may have contributed to the low levels of women in recorded crime.¹⁵¹ He argued that the law and the criminal justice system were essentially masculine until the twentieth century. As such the conceptualisation of crimes was based on male behaviours, while many women's behaviours were actively categorised as matters of sin, disorder, irregularity or censorable anomalies rather than a criminal offence subject to criminal justice. According to Sbriccoli, women's deviant behaviours were therefore largely absorbed into a mesh of extrajudicial control ranging from the domestic sphere and the neighbourhood, to a range of ecclesiastical and civil institutions. While

¹⁵¹ Sbriccoli, 'Deterior est condicio foeminarum', 81.

similar arguments regarding the importance of extrajudicial social control have been made for other parts of early modern Europe, what may set Italy apart is the important role played by a host of semi-public charitable institutions in connecting spheres of control for women at the fringes of society.¹⁵²

Centuries before the better-known custodial institutions in Victorian England, integrated networks of semi-public charitable institutions emerged all over Italy from the sixteenth century onwards, seeking to correct, supervise and help 'problematic' women and girls.¹⁵³ This system consisted not only of orphanages, workhouses and conservatories, but also of dowry investment funds, institutions for mutual assistance and, importantly, a variety of enclosed shelters for women at the fringes of society. These institutions, which were also established in other parts of Catholic Europe as part of the Counter-Reformation reform movement, connected shorter and long-term care and control throughout women's different life stages. They became increasingly purgative towards the women under their supervision and they furthermore increasingly housed a range of 'difficult women' admitted by their husband or kin or placed there by magistrates for punitive enclosure.¹⁵⁴ In early modern Bologna we also find that women were relatively more often incarcerated for theft – above all in the city's poor house – than their male counterparts. This stemmed from a broader, general notion that viewed confinement as particularly appropriate for all categories of problematic women. Based on some admission data of these institutions, it furthermore does not seem unlikely that women suspected of committing a crime were also placed in these institutions without a conviction. While the criminal women within these 'custodial warehouses' deserve further scrutiny, these traces suggest that these early modern welfare provisions may not have only reduced the need for women to engage in crime but also may have obscured their participation in it.

Gendered prosecution policies also profoundly affected early modern Bolognese women brought before the criminal court. Criminal prosecutions were and are always the result of political and institutional choices rather than a reflection of all of society's transgressions.¹⁵⁵ The Bolognese *processi* therefore represent the crimes for which the criminal court was willing and able to start an inquisitorial trial, but these cases constituted only a fraction of the crimes that were reported, let alone occurred. What crimes were prosecuted

¹⁵² Woolf, *The poor in Western Europe*, 24; Terpstra, *Cultures of charity*, 17.

¹⁵³ Cohen, *The evolution of women's asylums*, 3, 8.

¹⁵⁴ *Ibidem*, 17, 36, 79; Terpstra, *Cultures of charity*, 213; Cavina, *Nozze di sangue*, 48.

¹⁵⁵ Dean and Lowe, 'Writing the history of crime', 3.

and in what way must therefore always be seen in relationship to the authorities' priorities and the discretion of the judges, who had a wide *arbitrium*. What offences merited prosecution in the eyes of the authorities was both contingent on the crime itself as well as on the 'personal qualities' of the plaintiffs and defendants. Rooted in ideas about women's legal minority, and subordination in every social sphere, one's sex constituted one such quality. This is reflected in Bologna's criminal by-laws. In the mid-eighteenth-century by-laws the introductory remarks stress that the judge is free to impose judgement on women proportional to their sex, commuting punishments like the galleys and public *strappado* to the more suitable options of confinement, exile, incarceration or lashing.¹⁵⁶

Aside from receiving different types of punishments for their crimes, there were a range of circumstances under which the seriousness of women's involvement in crime was essentially called into question by the *Torrone's* judges. Interestingly, this phenomenon is particularly evident among property offences; the type of crime for which most female offenders were subjected to a formal investigation. Overall, the Bolognese authorities regarded property offences of all shapes and sizes as serious crimes that the court sought to investigate and prosecute in any way possible. However, while the characteristics of these crimes themselves do not appear to have been inherently distinct, their judicial treatment was highly gendered. Particularly when women acted alongside male co-offenders in theft, regardless of their functional role, they could often count on less harsh sentences or were not even indicted at all, often being absolved before even being formally interrogated. Furthermore, by far most of the women involved in the distribution of stolen goods into the urban economy were never scrutinised as criminal actors. Women's violence was also commonly regarded as judicially irrelevant. In their important work on the early modern Bolognese criminal court system, Giancarlo Angelozzi and Cesarina Casanova argued that this indulgence towards women should not be viewed as 'chivalry' but rather as paternalism rooted in ideas of women's minority and subordination in every social sphere.¹⁵⁷ Women's involvement in crime was often considered harmless or irrelevant, regardless of their actual role in the crime.

Early modern Italy's widespread culture of peace-making furthermore contributed to the image emerging from Bologna's criminal court records. Although the participation of women remains understudied, the formal incorporation and continued importance of

¹⁵⁶ *Bando generale Serbelloni 1756*, 3-4.

¹⁵⁷ Angelozzi and Casanova, *Donne criminali*, 239, 242; Casanova, 'Crimini di donne, giudici benevoli', 1.

reconciliation in early modern Italy's criminal justice system is relatively well-documented.¹⁵⁸ In addition to exercising top-down control through the prosecution of crimes, early modern Italian criminal courts also encouraged their use as a site of bottom-up peace-making and conflict resolution for a wide range of crimes, particularly (though by no means exclusively) for what were considered 'minor crimes' such as brawls and scuffles not resulting in life-threatening wounds. While most scholarly attention has been paid to the better-known petitions and notarised peace accords predominantly used for graver types of crimes such as homicide, the most prevalent type of peace-making took place at the level of the denunciation. Here victims and their close kin were able to halt any legal action through a simple juridical withdrawal of the complaint (*rinuncia*), often following a composition of some sort.¹⁵⁹ While some victims hoped to see those who wronged them punished by the authorities, many others used litigation as bargaining power within their communities. Interestingly, as the denunciations represented the earliest stages of the criminal court process, they included the petty grievances caused by and endured by significantly larger percentages of women. These practices of conflict resolution help explain why so many of these cases were never turned into a formal investigation.

That the Bolognese criminal court records allow us to scrutinise the different stages of the criminal court process nuances our understanding of the meaning of Italian women's comparatively low shares among formal criminal investigations. These shares do not simply point to women's marginal involvement in crime, but the sources instead reveal that they were engendered by the combination of a propensity to institutionalise 'problematic women', a general judicial paternalism towards women as well as a widespread and pervasive culture of institutionally-endorsed reconciliation. However, with over five times more female offenders at the level of the denunciations, it is furthermore evident that women were far less passive in their actual behaviours than is commonly suggested.

Crime and Italian women's agency

By their very nature these criminal court records attest to the discrepancy between norms and actual behaviour. As such they allow us to assess the scope of action of those that appeared before it as defendants and plaintiffs beyond what was normatively prescribed. Notwithstanding their modest presence among the *Torrone's* formally investigated crimes, a

¹⁵⁸ Bellabarba, 'Pace pubblica e pace privata', 189-213.

¹⁵⁹ Niccoli, 'Rinuncia, pace, perdono', 226.

significantly larger bulk of women's everyday behaviours were considered unwelcome acts worth denouncing to the criminal court – especially non-fatal, physical violence that did not result in life-endangering wounds. While women's lethal violence is said to have centred around the domestic realm, the judicial narratives from the earlier stages of the criminal justice process predominantly concern the much more prevalent violence that erupted among neighbours, acquaintances and co-workers in the urban space. They indicate that Bolognese women fought with their fists as well as with the items they had at hand, in many similar kinds of spaces as men and, importantly, did so to a much larger extent than the formal investigation dossiers alone would ever suggest. Furthermore, both in violence and in their larcenous activities – the latter being more significant among the *processi* – the majority of women acted alone, nuancing their image of mere accomplices in crime. While general discussions commonly suggest that the strict gender norms as well as Italy's honour culture left little space for women's agency, whether licit or illicit, the criminal court records suggest that women had a greater scope of action than is commonly believed.

Women's social and economic roles in the urban economy played important roles in shaping this leeway. Contrary to popular belief, women's labour force participation rates in Bologna (as in Turin) were as high as (or even higher than) those observed elsewhere in early modern Europe. As such the social profiles of the women and men whose offences came to the notice of the criminal court represented a broad dissection of predominantly lower- and lower-middle class society with a wide range of professions, albeit on-and-off or underemployed. An important share of the female offenders was active in the less-prestigious and poorly paid functions within the textile industry such as spinners, weavers, hosiers and seamstresses relying on the uncertainties of piecework. These working poor generally lived in close proximity to each other, shared resources with neighbours and attempted to maintain a livelihood through the household's combined labour efforts, occasional charity and, for some, opportunistic theft. For women as for men, the occasions, opportunities and setting for both thieving and violence were shaped by their legitimate socio-economic roles in the urban environment. Especially in their neighbourhood surroundings but also on Bologna's markets, streets and in taverns women fought over neighbourly annoyances, resources and their economic interests within the capacities of their roles as neighbours, landlords and tenants, economic competitors, vendors and clients, and creditors and debtors. Female resellers' frequently documented though unprosecuted

distribution of stolen goods furthermore suggests that their leeway may have been far more extensive than is currently known.

Another important way in which the sources reveal early modern Italian women's agency was through their litigation as plaintiffs. In general, the notion of women's inferior legal status derived from Roman law contributed to the idea that Italian women may have had limited legal agency, especially compared to Northern European societies. However, the examination of seventeenth- and eighteenth-century criminal court records demonstrates that women, like men, were able to strategically employ justice to settle their conflicts. While inhabitants of even the most remote hamlets in the Bolognese territory could theoretically bring conflicts to the court, the reliance on male local officials in the countryside to relay cases to the *Torrone* created a structural impediment to women's ability to seek justice. Urban women could and did make their way to one of the court's eight notaries to lodge complaints in person. While the petty grievances that they predominantly sought to pursue were rarely turned into a formal investigation, they found in the criminal court a forum through which they could wield and manipulate power and exert it over their community members. Here women were able to turn to litigation to mediate and settle their personal disputes, to establish boundaries and to make individual statements. For women the urban environment may not have only provided a more precarious context, but also better opportunities to resolve conflicts through the formal criminal justice system.

Avenues for future research

The juxtaposition of these fragments of individuals' lives thus clearly reveals the ambiguity of women's position in early modern Bologna. On the one hand, both moral norms and early modern Italy's legal culture played important roles in obscuring and arguably even containing Bolognese women's illicit behaviours. This has resulted in relatively low female crime shares at the level of the criminal investigations. At the same time, the close-reading of these investigation dossiers reveal that the criminal involvement of women in for example larcenous activities often escaped the magistrates' scrutiny. The multitude of complaints concerning women's violent embroilments furthermore demonstrate that their agency as both criminal and litigants was far greater than a reading of the prescriptive literature or their share among the *processi* alone would suggest. Any social historical examination of women's gendered relation to crime and criminal justice needs to take the extent of women's scope of action amid a culture of constraint into account. In early modern Bologna both

gender norms and the ethics of honour meant that women were not encouraged nor expected to engage in crime. At the same time their public urban lives created the spatial and social latitude for licit and illicit activities beyond what the norms prescribed.

The city of Bologna has offered a fruitful setting for the historical analysis of the gender dynamics in crime and criminal justice. As one of Italy's many textile towns with one of most long-term best-preserved criminal court archives both within and outside of Italy, the city has provided an opportune backdrop to trace women's involvement in criminal behaviour throughout the judicial process. Bologna was, however, only one city among many others. While this book has used this case-study to theorise and nuance assumptions about the Italian peninsula and, by extension, Southern Europe as a whole, it does not intend to infer uniformity across early modern Italy. For example, while interpretations of Roman law are assumed to have led to general constraints on Italian women's legal and socio-economic agency, local statutes are known to have either moderated or exacerbated these effects. These local laws have placed Florence on one extreme of the balance of women's scope of action and towns such as Venice and Genoa on the - less restricted - other.¹⁶⁰ That there were significant regional variations in these and fields touching on women's agency is generally accepted, though its local implications remain obscure, also in relation to crime and criminal justice. How did women fare in the more restrictive Florence in the centuries after the Renaissance? And what was it like in other cities where women are assumed to have had more social and economic liberties? Can similar characteristics and mechanisms as those traced in the Bolognese case be observed, or were other local factors more decisive?

Alongside of judicial paternalism and peace-making practices, one of the factors that is assumed to have had a profound impact on the extent to which early modern Italian women appeared in the criminal court records is the institutionalisation of problematic women. Ranging from orphanages and conservatories to workhouses and enclosed shelters, they represented a double-edged sword of care and control for the women who either entered voluntarily or were placed there by their husband, kin or by local officials. That there were criminal women among the population of the increasingly purgative 'custodial warehouses' is commonly accepted. However, if the archival materials permit it a closer examination of these women, their crimes and their pathways into these institutions would be needed to fully understand the relationship between this general tendency towards the

¹⁶⁰ Kuehn, 'Gender and law in Milan', 406-407.

institutionalisation of women, their crimes and the criminal justice system in early modern Italy.

Lastly, this book has examined the influence of gender on women's criminal behaviours and their judicial treatment in Bologna during the seventeenth and eighteenth centuries. It has largely done so through the lens of social history, examining how social actors moved within the socio-economic and legal contours of the early modern city. In discussing the judicial narratives surrounding acts of violence that came before the criminal court, it did briefly touch upon more cultural interpretations of gender. A more extensive and systematic cultural historical examination of masculine and feminine narratives constructed in the criminal court record, of the differences and similarities that existed between them, is possible based on the collected samples but has remained outside the scope of this book. This book, in its social historical approach to the history of women in crime, has focused on the 'forgotten' period between the mid-seventeenth and mid-eighteenth centuries. This was the period after the Plague and its subsequent social unrest and before the city experienced the full effects of the economic crisis. Delimiting the period under discussion has meant that various important societal transformations during the second half of the eighteenth century have remained unexplored. How women's criminal behaviour and their judicial treatment developed under the weight of the unfolding economic crisis, the increasing proletarianisation of labour and the assumed weakening of patriarchal control must necessarily be answered in future research. The scrutiny in this book of the mechanisms affecting women's involvement in crime in the prior, relatively more tranquil period hopefully provides a fruitful point of departure.

APPENDIX. INFORMATION ON SAMPLES

TABLE 28. NUMBER OF CASES AND DEFENDANTS WITHIN THE VARIOUS SAMPLES						
	Type	Cases	Defendants			
			Women	Men	Total	Unidentified
Sample 1	<i>Processi</i>	910	70	1287	1357	62
Sample 2a	Denunciations	1070	241	903	1144	214
Sample 2b	<i>Processi</i>	204	20	287	307	7
Sample 3	<i>Processi</i>	77	91	61	152	-

Sample 1. Exhaustive and representative sample of extant *processi* for urban Bologna for the years 1655, 1675, 1705, 1725 and 1755.

Archivio di Stato di Bologna, Tribunale del Torrione, Atti e processi, Book 6653 to 8179.

This first dataset consists of 910 *processi* collected from 81 books and represents all extant urban investigation dossiers for the five sample years that I was able to locate in the archive. The data collected for these cases is less-detailed than for the other samples and serves primarily to reveal representative, quantitative patterns of criminal prosecution and possible developments throughout time.

Sample 2a. Non-exhaustive sample of urban denunciations derived from several notaries' casebooks centering around the years 1655, 1675, 1705, 1725 and 1755.

Archivio di Stato di Bologna, Tribunale del Torrione, Atti e processi, Book 6609, 6620, 6653, 7028, 7044, 7608-1, 7869-1, 8171-1.

The second dataset consists of a random sample of eight notaries' casebooks centring around the sample years. This has resulted in a collection of 1,070 denunciations. They have been examined in detail and have also been used for qualitative analyses of the sources.

Sample 2b. Non-exhaustive sample of urban *processi* from several notaries' casebooks centering around the years 1655, 1675, 1705, 1725 and 1755.

Archivio di Stato di Bologna, Tribunale del Torrione, Atti e processi, Book 6596, 6609, 6620, 6653, 7028, 7044, 7055, 7077, 7608-2, 7869-2, 8171-2.

This second part of the second dataset consists of 204 *processi* found in the same notaries' casebooks as in sample 2a. They were either kept in the back of the casebooks in which the denunciations were written or were recorded in their accompanying, dedicated volumes (for

example referred to as part 2). These *processi* have received the same treatment as the aforementioned denunciations, allowing for a qualitative analysis.

Sample 3. Non-exhaustive sample of additional urban *processi* from 1654 to 1757.

Archivio di Stato di Bologna, Tribunale del Torrione, Atti e processi, Book 6526 to 8179-2.

The qualitative analyses in this book are also based on a third data collection of 77 additional *processi*. These *processi* were collected from 42 books for years surrounding the sample years, with the only criteria that a woman was named on the front sheet as one of the defendants. They were examined in the same in-depth way as sample 2.

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SUMMARY IN DUTCH

Dit proefschrift onderzoekt de invloed van gender op geregistreerde criminaliteitspatronen in zeventiende- en achttiende-eeuws Bologna. Het wetenschappelijke beeld dat we vandaag de dag hebben van criminaliteit in de vroegmoderne periode wordt grotendeels gedomineerd door het onderzoek naar verschillende steden in Engeland en de Republiek. Die studies hebben onder andere aangetoond dat het gedurende de vroegmoderne tijd niet ongewoon was dat vrouwen een veel groter aandeel hadden in criminaliteit dan in de twintigste eeuw: in sommige perioden vormden zij zelfs de helft van de misdadigers. Ook ideeën over stedelijk criminaliteitspatronen worden aan deze casussen ontleend: vrouwen zouden zich bovenal bezig hebben gehouden met eigendomsdelicten. Aan de hand van een kwantitatieve analyse van enkele duizenden criminele rechtbankdossiers van Bologna's *Tribunale del Torrione*, laat dit proefschrift zien dat het hierboven geschetste beeld niet voor heel vroegmodern Europa opgaat. Allereerst lijkt het aandeel vrouwen onder de vervolgingen in Bologna consequent een stuk lager te zijn geweest dan we weten van veel andere steden in vroegmodern Europa. Ten tweede was het aandeel van geweld voor de Bolognese rechtbank aanzienlijk groter.

In tegenstelling tot wat vaak wordt gedacht op basis van allerlei normatieve bronnen, kunnen deze eigenschappen niet worden verklaard door alleen maar te wijzen naar het stereotype beeld van de achtergestelde Italiaanse vrouw met beperkte handelingsruimte. In plaats daarvan stelt dit proefschrift dat we naar een drietal andere tendensen moeten kijken om deze specifieke criminaliteitscijfers en criminaliteitspatronen in Bologna te begrijpen: het institutionaliseren van 'moeilijke vrouwen', juridisch paternalisme en de verzoeningscultuur. Om dit aan te tonen is niet alleen gebruik gemaakt van de vervolgingsdossiers (*processi*), maar ook van de aanklachten (*denunce* of *querelle*). Deze aanklachten representeren het eerste moment waarop een slachtoffer, diens familie of een lokale beambte beklag doet bij een van de notarissen van de rechtbank. In de vervolgingsdossiers lijkt het percentage van vrouwelijke verdachten tussen de zeventiende en achttiende eeuw slechts vijf procent te zijn geweest. In de aanklachten aan de andere kant vinden we zeker vier keer zoveel vrouwelijke daders. Voor sommige vergrijpen kon dit zelfs oplopen tot iets minder dan een derde. Het aandeel van vrouwen onder daders in Bologna lijkt zo veel minder onder te doen voor de gemiddelde cijfers die we kennen voor andere steden elders.

Een belangrijke reden waarom er zoveel vrouwen uit het rechtsproces ‘verdwenen’ is de rol van conflictresolutie en verzoening (*peace-making*). Het tot stand willen brengen van verzoening tussen de verschillende partijen had een belangrijke functie in het strafrechtssysteem in heel Europa, maar werd in veel Italiaanse steden vanaf de zestiende en zeventiende eeuw toenemend geïstitutionaliseerd in het moderniserende rechtssysteem. In vele gevallen verving zo’n vredesakkoord een daadwerkelijke criminele bestraffing. Omdat verzoening werd gezien als de meest efficiënte manier om de sociale orde weer te herstellen, oefenden magistraten ook redelijk wat druk uit op bijvoorbeeld de families van moordslachtoffers om de pogingen tot vredemaking van daders te accepteren. Voor de adel werden er zelfs speciale raden opgericht in de hoop verder bloedvergiet te kunnen voorkomen door families zich te laten verzoenen. Maar ook voor minder zware delicten werd conflictresolutie via het gerecht aangemoedigd. Zo werden aanklachten over met name kleinere ruzies en gevechten op grote schaal én door een breed segment van de bevolking aangebracht bij de criminele rechtbank. Volgens de officiële criminele verordeningen stonden er zware straffen op dit soort vergrijpen. Doordat een aanklager de mogelijkheid had om een aanklacht in te trekken (*rinuncia*), werd diens onderhandelingspositie ten opzichte van de beschuldigde partij aanzienlijk vergroot. Het doel van aanklagers – waaronder zich ook veel slachtoffers van vrouwelijk geweld bevonden – was dus vaak niet zozeer gericht op bestraffing, maar op onderhandeling.

Naast het relatief lage aandeel van vrouwen in de latere fases van het judiciële proces, is het grote aandeel van geweldszaken voor het gerecht een opvallend aspect van het Bolognese criminaliteitspatroon. In tegenstelling tot veel andere steden in de vroegmoderne territoria van de Republiek, Duitsland en Engeland, betrof het overgrote meerendeel van de aanklachten – voor vrouwelijke daders zelfs meer dan 80 procent – een vorm van geweld. Om ook de hoge moordcijfers (die in Italië pas veel later daalden dan elders in Europa) te verklaren, hebben sommige onderzoekers daarom gesteld dat er in Italië een geweldscultuur bestond, met bijbehorend misdaadpatroon. Er is in dit kader gewezen naar het uit de antropologie overgeleverde concept van de Middellandse eercultuur, waarin geweld een duidelijke sociale en bovendien legitieme functie had. Een concretere invulling hiervan zou de judiciële verzoeningscultuur kunnen zijn, die een onvoldoende afschrikwekkend effect zou hebben gehad om dit geweld effectief in kunnen dammen.

Ondanks het overweldigende belang van geweld in de eerdere fases van het judiciële proces richt de vervolging van vrouwen in Bologna zich disproportioneel op diefstal.

Hoewel slechts 11 procent van hun aanklachten eigendomsdelicten betrof, verviervoudigde het belang van dit type criminaliteit op het niveau van de vervolgingen. Voor mannen nam het proportionele belang van diefstal en verwante activiteiten ook toe, maar lang niet zoveel als bij vrouwen. Op allerlei soorten en maten van eigendomsdelicten stonden zware straffen en deze werden, in tegenstelling tot geweld, ook relatief vaak opgelegd. Toch kan het hoge aandeel van eigendomsdelicten (en dan met name diefstal) onder vervolgte vrouwen niet alleen worden verklaard door een streng vervolgingsbeleid. Een waarschijnlijker verklaring is dat vrouwen voor andere type delicten, zoals geweld, *niet* werden vervolgd. Een belangrijke aanwijzing hiervoor, afkomstig uit de rechtbankdossiers, is dat de autoriteiten onevenredig vaak afzagen van de vervolging van vrouwen wanneer zij een mannelijke mededader hadden, ongeacht het karakter van haar rol of haar bijdrage aan de misdaad. Sterker nog: vaak werden vrouwelijke mededaders alleen maar ondervraagd als getuigen in plaats van als verdachten. Dit zogenaamde 'judicieel paternalisme' was geworteld in ideeën over de beperkte wettelijke status van vrouwen, en in bredere zin haar algehele onderworpenheid aan mannen in elke sociale sfeer van het leven.

Een laatste belangrijke factor die naast dit judicieel paternalisme en de verzoeningscultuur bijdroeg aan het lage aandeel van vrouwen onder vervolgte criminelen, was de voorkeur die Italiaanse overheden gaven aan de institutionalisering (in plaats van criminalisering) van 'moeilijke vrouwen'. Al vanaf de zestiende eeuw ontstonden er in veel Italiaanse steden allerlei semi-publieke liefdadigheidsinstellingen. Dergelijke instituties richtten zich op het corrigeren, toezicht houden op, en helpen van vrouwen en meisjes, maar kregen in de loop der tijd een steeds disciplinerender randje. In Bologna werden criminele vrouwen vaker dan mannen veroordeeld tot een gevangenisstraf die uitgezeten werd in zulke instituties, bovenal in het stedelijke armenhuis. Gebaseerd op de toelatingsgegevens van dergelijke instituties lijkt het echter niet onwaarschijnlijk dat criminele vrouwen hier ook geplaatst werden nog voor er überhaupt een officieel vonnis was uitgesproken bij de rechtbank. Zowel de echtgenoot, familieleden als magistraten konden een zogenaamde moeilijke vrouw namelijk voor een aantal jaar laten opsluiten.

Dat de institutionalisering van vrouwen, het judicieel paternalisme en de verzoeningscultuur vrouwen tezamen in grote mate uit de meest bestudeerde soorten criminele bronnen hebben gehouden (de vervolgingsdossiers), betekent echter geenszins dat vrouwen slechts een verwaarloosbare rol hebben gespeeld in criminaliteit, noch in het publieke, stedelijke leven in Bologna. Sterker nog, een zorgvuldige lezing van de

vervolgingsdossiers én de aanklachten samen laat juist zien dat hun gevechten en diefstallen sterk verbonden waren aan de legitieme sociale en economische rollen die zij in de stad vervulden. De vaak gedocumenteerde maar zelden vervolgde rol van verkoopsters in het distribueren van gestolen goederen suggereert bovendien dat de handelingsruimte van vrouwen nog wel eens veel groter zou kunnen zijn geweest dan we momenteel vaak aannemen. Maar ook de grote mate waarin de slachtoffers van vrouwelijk geweld – veelal andere vrouwen – de criminele rechtbank aan wisten te wenden voor hun persoonlijke doeleinden binnen hun gemeenschap, is veelzeggend. Vrouwen in Bologna gaven daarmee actief vorm aan de manier waarop we tegenwoordig naar vroegmoderne criminaliteit dienen te kijken.

CURRICULUM VITAE

Sanne Muurling (Den Helder, 1987) started studying History in 2005 at VU University in Amsterdam. She received her bachelor degree in 2008 and her research master (cum laude) in 2011, with a thesis on domesticity in the early modern material culture. In the same year, she also completed a second master in Book and Digital Media Studies at Leiden University, while also doing research internships at the National Library of the Netherlands (Koninklijke Bibliotheek) and Brill. After that, she worked as a junior researcher for the project Historical Sample of the Netherlands at the International Institute of Social History in Amsterdam.

In 2013, Sanne started her PhD in the NWO-funded project *Crime and gender 1600-1900: a comparative perspective*. Her research on women's criminality in early modern Bologna was supervised by Professor Manon van der Heijden and Professor Ariadne Schmidt within the department of Economic and Social History within the Institute for History at Leiden University. During her PhD, Sanne completed the N.W. Posthumus Institute Graduate Training Programme and taught bachelor courses at Leiden University. Currently, she is employed at Leiden University Libraries as a subject librarian for Urban studies, International studies, and Italian language and culture.

