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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. Dingel (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.