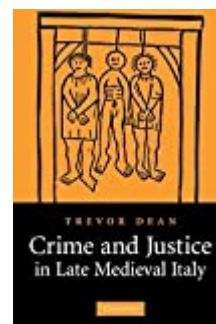


Trevor Dean. *Crime and Justice in Late Medieval Italy*. Cambridge: Cambridge University Press, 2007. ix + 226 pp. \$105.00 (cloth), ISBN 978-0-521-86448-0.



Reviewed by Frances Andrews (Department of Mediaeval History, University of Saint Andrews)

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This volume is dedicated to the memory of Philip Jones (1921-2006), whose own publications suggest that he would certainly have appreciated the attempt to encompass a very wide range of sources. Trevor Dean sets out to combine legal and social history to provide an account of continuity and change in criminal justice and criminal behavior in the thirteenth to fifteenth centuries. He is aware of the appeal to readers (and writers) of the salacious or anecdotal, identifying it as one reason why histories of crime and the law in the Middle Ages are often unrepresentative, distorting the record by concentrating on the great anecdotes. Of course, those stories, with their apparently intimate details of life as it was lived, are also one reason why crime has burgeoned as a field of enquiry for medievalists in the past couple of decades. The reader is warned that this will be a sober read. It is nonetheless well worth the effort.

After a wide ranging historiographical introduction, ranging from Marc Bloch on comparative history to the most recent works on crime in Italy, Dean sets out to replace grand narratives in favor of more detailed work on the way crime is constructed in the sources. He proposes—and, more remarkably, pulls off—a genuinely comparative approach, contrasting the records of one city with another to differentiate the specific from the general and to identify change. Equally exceptional, he

first examines the documentation genre by genre and only then turns to categories of crime. In part 1, the book includes chapters with such titles as “Trial Records,” “Chronicles,” and “Consilia,” which in some cases read as useful additions to the famous French series *Typologies des Sources du moyen Âge occidental*. In the second half, the book turns to the more usual themes of a social history of crime, “Insult and Revenge,” “Sex Crimes,” “Potions and Poisons,” “Violence,” and “Theft.” The danger of this structure is, of course, repetition, and some rather awkward cutting has indeed been necessary to make it work (e.g., pp. 67 and 123-132 on revenge). Yet, this also has the advantage of giving the reader a multifaceted approach and, at times, the valuable impression of a work in progress. In both halves of the book, Dean allows the reader to see the building blocks of his research, an intellectually brave and convincing approach. He first published a more general volume on *Crime in Medieval Europe* (2001), which he inevitably finds himself modifying in the process of writing this (relatively) more focused work. At times, the result thus reads more as a personal and creative conversation with the author than a finished work.

Chapter 1, the longest in the book, explores trial records to outline the use of denunciation in contrast to the more flexible practice of inquisition (a thirteenth-

century creation) and *ex officio* prosecutions. It draws attention both to aspects of the sources historians do well to remember (that statutes reflect attitudes, not practice) and those perhaps known, or half-known, by legal historians (but usually ignored by others), such as that to make a crime of an action, “clarity ... intention and consequence ... were all required” (p. 29). In short, the process made the crime. Indictments “impose[d] narratives on defendants,” imputing to them generic motives, intentions, and impact, for example, that prostitutes amounted to a public danger or that insult damaged honor (p. 33). Such shared constructions of crime are unsurprising, but comparison of records from different cities allows Dean to demonstrate just how different practice might be. In Savona, for instance, there was resistance to the use of inquisition, and criminal justice was of a “strongly negotiated kind” (p. 37). Punishment was usually a fine or banishment, and capital punishment was generally reserved to outsiders, sodomites, and incorrigible thieves. By contrast, in Bologna, inquisition was used in most cases and capital punishment was more frequent, though again, it was more usually imposed on outsiders. The Bologna evidence is not, however, always clear, since conversion or discounting of penalties was also common, suggesting that “concord, rather than punishment, [was] an important aim of judicial action” (p. 43). Comparison over time also reveals that in Bologna there were fewer cases in the fifteenth century. This “gentler” picture was also apparent in Lucca, but in Mantua under the Gonzaga, greater harshness emerged at the end of the Middle Ages. So, trial records allow Dean to highlight the importance of the narrative of the court (dependent as it was on local contexts), in contrast to the narrative of the crime, “shaped by judicial categories [and] by the choices and strategies of those who report the crimes” (p. 51).

Having demonstrated the “narrative” quality of trial records, in chapter 2, Dean turns to more traditional “narrative” sources: the vast array of chronicles produced in late medieval Italy. These he examines from a variety of angles, extracting their accounts of the personnel of justice (from honorable officials to effeminate magistrates), popular responses (lynching of wrongdoers and the role of boys in performing justice), the didactic nature of acts of punishment, and the fate of the bodies of the executed. This last was something that differed greatly, so that quartering began as punishment for political treachery and was later applied to other crimes that could be construed in the same way, such as children against parents or servants against masters: a shift from the political to the domestic arena, which Dean links to changes in

piety and the growing emphasis on the redemptive suffering of Christ. By contrast, he sees the difference in attitudes toward failed executions as a marker of more secular approaches to explaining crime in Italy. Thus, when the executioner failed in his task, in northern Europe divine intervention was used as a means to reprieve the criminal, whereas in Italy this was seen either as the work of the devil or poor technique. The relative weight of these pious and secular explanations is an issue worth taking further.

Chapter 3 is much briefer and builds directly on the second, looking at works of fiction as sources for the “social imaginary” and how this relates to the literary, legal, and ideological context. Dean outlines the common ground of fiction and chronicles: both are ambivalent; expose social expectations and hierarchies; allow exploration of the humorous side of the law; and curtail or abbreviate process, while also tending, for example, in their presentation of the courtroom, to ratify moral values. He also suggests, inevitably with rather less evidence to support the case, that comparative treatment of similar narratives in chronicle and fiction may “suggest how tales relate to changes in the law”, for example, in reflecting “anxieties about parental control of daughters’ sexuality” (p. 83).

Chapter 4, on statutes, reminds the reader of the great difficulty of working with the vast mass of surviving legislative texts, their multilayering, lack of defined authors, dating problems, and, therefore, the difficulties of contextualizing and establishing their relationship with the *ius commune*. Dean’s solution is based on discourse analysis (the structure and self-authorization of the text) and the literary aspects of the law (the role of fiction in translation of law into judicial practice) to demonstrate the common repertoire of strategies to characterize crime. Thus, he identifies some key features of the discourse of statutes, such as that the rationale for legislation often related to bringing things to light “lest they remain unpunished,” (p. 87) or to a perceived need to remedy the causes of crime. These and other strategies were adopted to justify changes in the law and/or stress on greater restraints. (Monarchies also used personal detestation of crime.) The need to avoid leaving crimes unpunished was one of the most common reasons adduced for new legislation, while causes of crime were also seen as pathological (disease). This echoes the brief article by R. I. Moore on the construction of heresy as disease, and, indeed, it would have been interesting to explore parallels with Moore’s approach in mind. Custom, further subdivided into the corrupt and the corrupting, was

an equally important—and predictable—theme, as was the widespread acceptance that fear of penalty was a way to reduce crime. This textual analysis becomes fascinating when Dean turns to the “fictional” “as if” of legislation, as, for example, in the fiction that a crime had been committed even though there was only a presumption (finding men near a table, with dice on the floor) or reputation (*fama*), or which saw the contumacious punished as if guilty (pp. 92-93).

Chapter 5, the last in part 1 on the sources, turns to *Consilia*, the “learned opinions” produced by academic lawyers. Once again, the chapter starts with the difficulties for the historian approaching this sort of material: the lack of modern editions, the obscure technical practices of medieval lawyers in citing law and abbreviating what was so familiar to them, and the relative obscurity of modern legal historians writing about the forbidding details of legal disputes. Contextualization is also difficult for reasons similar to those that make statutes such awkward sources: the lack of information about the identity of individuals or outcomes, often even dates. Again, Dean makes a careful (dare I say judicious) decision to survey a broad sample—15 authors over nearly 200 years—a task made slightly simpler by the fact that only some 350 of the total of 5000 *consilia* they produced relate to criminal cases, and, of these, the vast majority concern homicide or banditry. The great bulk of legal *consilia*, in other words, deals with the rather less beguiling subjects of inheritance and property law. The sample does, however, allow Dean to explore some of the broader concerns of lawyers more directly, such as the degrees of culpability and the role of intention, which was acknowledged to be absent, for example, in those “out of their mind” (p. 100). The chapter is also an important reminder to social historians of the need to approach these *consilia* within the context of Roman (and canon) law and acknowledge the differences in medieval jurists’ thinking.

“Filthy worm-head, You’re lying in your throat, filthy, rotten woman, I hate you.” (p. 113) These three insults and a multitude of others open part 2 of the volume, in which Dean turns to the crimes themselves and, happily, makes no attempt to avoid the more colorful side of the sources. After a brief discussion of the appearance of such insults in criminal cases and the gradual shift toward a concern focused on blasphemy, he turns again to the question of revenge. Here, the techniques of part 1 begin to bear fruit. He argues that cases of revenge must be explored within their full narrative structure and neatly demonstrates how this can benefit the historian by examining the jurist Baldus de Ubaldis’s famous pas-

sage on the legitimation of vendetta. By recontextualizing it within the specific case, in which Baldus in fact recommended against revenge, he is able to make it fit his hypothesis that jurists were not in favor of vendetta (cf. Trevor Dean *Past and Present* [1997]). Instead, he argues, they sought to identify and separate each episode of violence, so as to allow each to be resolved on its own terms, rather than accepting the Gordian knot of a cumulative “revenge culture.”

Chapter 7 turns to sex crimes, which undoubtedly grew in range and number of prosecutions in the late Middle Ages. As throughout part 2, Dean tackles the work of previous scholars, and in this case, in particular, Guido Ruggiero’s study of Renaissance Venice. Ruggiero argued that increasing discipline of sexual matters stemmed not from morality but from concerns about family structure in difficult times. Dean is not convinced and draws attention to the problems of terminology—the need to distinguish between types of sex crime (sodomy was strongly tied to heresy, whereas prostitution might have been seen as an “ally” in the battle against it and adultery) and the impact of observant preaching. He also argues that any account of sex crimes, such as sodomy, needs to go beyond the exceptional cases of Venice and Florence (where Michael Rocke’s work dominates the analysis) to the study of the same crimes elsewhere, where they seem to have been less problematic.

The last three chapters of this excellent book briefly explore crimes involving potions and poisons, violence, and theft. Once again, each chapter examines and occasionally dismantles approaches found in the existing historiography. In his chapter on potions and poisons (tracing their reconceptualization into witchcraft), for example, Dean draws attention to the different nature of the sources used by previous writers as an explanation for their contrasting conclusions. Instead, chapter 9 on violence includes the use of recent work on violence as “rituals of confrontation,” which is fruitfully linked to the growth of duels (p. 168). The final chapter takes on perhaps the most common crime, that of theft. Again Dean’s mastery of the sources enables him to propose broad narratives: accusation was gradually replaced by inquisition, and mutilation and death were gradually being replaced by fines and banishment (a sharp contrast with the greater severity dealt out to those guilty of sex crimes). In the process, of course, the reader is faced with a new narrative, yet it is one that has much greater credibility than the grand narratives he set out to replace.

A great deal of work has gone into this volume and

there is far more to it than a short review can possibly encompass. It handles difficult sources with deceptive ease, and the author provides useful guides to the bibliography. Historians working in a number of fields will undoubtedly want to tackle his conclusions and forward the debate—perhaps the best kind of compliment for a book of this sort. There are some very minor glitches. Dean takes it for granted, for example, that the reader will know what is signified by his use of the term “ban-

dit,” though I suspect that for many readers, filmic images of highway robbers will spring to mind, rather than the intended category of those banished from a territory (as becomes clear on p. 105). Cross-references are sometimes missing, and the tough thinking that has gone into its genesis leaves some rough edges. This is a book that provides both the theoretical justification for its approach and the practical demonstration of its worth, and it deserves a very wide readership.

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