On 6 June 1654 a surgeon from one of Bologna’s hospitals reported Carlo Masi-
na’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). Their quarrel es-
calated 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, Do-
menico 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 with Carlo’s kin and the Lam-
berti 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 pros-
ecuted crime are linked to moral and legal norms, which differed according to 
offence category as well as the ‘quality’ of the offender and victim – gender 
being one of the constituents that magistrates 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 
len of the authorities. By examining both normative writings such as the city’s 
criminal bylaws and a sample of the Tribunale del Torrone’s investigation dossi-
ers (processi), it sheds light on the legal attitudes and practices of prosecution 
that played a significant role in shaping women’s formal encounters with the 
law in urban Bologna.

This chapter begins with an overview of the legal landscape and the organi-
sation 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 bylaws. This will reveal 
that although the procedures and laws in themselves may appear relatively

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1 ASBo, Torrone, 6670, fasc. 3.
neutral, they provided the responsible magistrates with ample space for a gender-specific treatment of crime. The next section examines 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 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. Civic and ecclesiastical authorities across northern Italy reformed their governmental and judicial structures throughout the sixteenth and seventeenth centuries. They did so by specifying the focus of existing courts and civic institutions and by rationalising and bureaucratising their methods, leading to the creation of new bodies and the abolition or redistribution of others, as well as changes to the cities' judicial systems. The emergence of the Torrone can 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 founding of a new criminal court was also intimately tied to the papal quest to consolidate and expand its power over the territory. 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,' the papal legate worked in cooperation with the civic Bolognese Senate, made up of local noble families. From this perspective, the establishment of the Torrone sprung forth from the wish to firmly insert papal representation

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2 McCarthy, ‘Prostitution, community and civic regulation,’ 119-120.
3 Rose, A renaissance of violence, 41-42.; M. Cavina, ‘I luoghi della giustizia,’ in A. Prosperi (ed.), Bologna nell’età moderna (secoli XVI-XVIII). Tomo I. Istituzioni, forme del potere, economia e società (Bologna: Bononia University Press, 2008) 380.
4 De Benedictis, ‘Repubblica per contratto,’ 59-72.
into the justice system through the direct operation of the criminal and civil courts.

The 1530s saw not only the establishment of the Tribunale del Torrone, 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 Torrone 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 it has been 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 Torrone 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 in the past occurred in the city by influencing the operations of the podestarial court, and in the rural hinterlands through private courts the elites held.\(^10\) The consolidation of the Torrone was a process that lasted almost a century and a half. According to Colin Rose, it took at least to the late 1660s when the leading members of the

\(^5\) 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; Rose, ‘Violence and the centralization of criminal justice,’ 102.
rebellious nobility were 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 Torrone was an important means in this endeavour.

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 judicial reforms increasingly defined the competences and jurisdictions of these institutions, the boundaries of jurisdiction between these courts remained blurred and overlapped with each other. 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 and pay taxes, 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 one of these tribunals, it demonstrates the blurred boundaries of early modern judicial practice.

Historians have noted that it was not only the courts’ 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

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11 Rose, ‘Violence and the centralization of criminal justice,’ 103.
12 McCarthy, ‘Prostitution, community and civic regulation,’ 122-124, 125-127.
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 or the secular court, depending on the aim of the plaintiff. Before a 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.

Despite this legal pluralism and overlapping jurisdictions, 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

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13 Cavina, Nozze di sangue, 111.
14 Ibidem; Lombardi, ‘Marriage in Italy,’ 107.
seventeenth-century Bologna. 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. Competences, judicial traditions and plaintiffs’ preferences thus all played a role in how Bologna’s early modern legal landscape was navigated by its inhabitants.

2 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: theuditore 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. 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. The judge was aided by two to four deputy judges (sott’uditori), who assisted the

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 C. Rose, ‘Homicide in North Italy: Bologna, 1600-1700’ (Unpublished PhD thesis, University of Toronto, 2016) 68.
judge with cases outside of the city. They could dispense judgements, which were reviewed and ratified 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, 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 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 some scholars – 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), tasked with keeping order in the city and arresting delinquents. This premodern 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. 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 seedy 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 delivery of citations and summons, and the protection of notaries and judges.25 It was through them that public order offences came before the

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19 Rose, ‘Violence and the centralization of criminal justice,’ 106.
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.
25 Rose, ‘Violence and the centralization of criminal justice,’ 107.
Torrone, since the sbirri were also tasked with patrolling the city streets at night to ensure compliance with weapon regulations 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 used against victims of crime 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. 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.

Thirdly, barbers and surgeons of the city’s major hospitals also formed an important source of information and intelligence for the Torrone. The homicide case of Carlo Masina that this chapter opened with, 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. From the sixteenth century onwards, Bologna’s criminal bylaws 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. Bologna’s 1610 summation of the criminal bylaws states that medical practitioners (medici, cirurgici, 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. 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. Penalties for failing to denounce consisted of hefty fines of 50 scudi per case.

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26 Ibidem, 108; 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, 153, 176 and 193; Rose, A renaissance of violence, 48-49.
28 Bando generale dell’illustrissimo, e reverendissimo sig. Benedetto card. Giustinian o legato di Bologna, pubblicato alli 23. di Giugno, & reiterato alli 24. di Luglio 1610 (Bologna 1610) Capitolo xxxi, page 64.
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
The purpose of the medical practitioners’ obligation to denounce injuries was to bring the numerous acts of violence to the attention of the authorities. According to Peter Blastenbrei, who examined physician’s reports for sixteenth-century Rome, many of these “hundreds and thousands” of violent acts would otherwise have gone unnoticed by the criminal court, given the “notorious reluctance of the Roman population to give information to the justice.”

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. Such reluctance in denouncing violent offenders was far less apparent among Bolognese subjects by the mid-seventeenth to mid-eighteenth centuries. In urban Bologna, about one-fifth of the cases of physical violence came under the court’s purview through these medical practitioners’ reports. Only a handful of victims (out of over hundred reports in my samples) described their injuries as accidental and only fifteen described 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: a local official appointed from the local ranks on an annual basis who was responsible for relaying crimes that occurred in his jurisdiction (usually one, but sometimes two or three villages) to the Torrone. The suburban and urban counterparts of this office were that of the mestrale and ministrale and were organised at parish level. They served both as the Torrone’s contact in the area and also as the source of public knowledge of and participation in justice. Over two-thirds of the crimes occurring outside of the city were brought to the attention of the court by these local bailiffs. In the city their role was trumped by others such as lawmen and medical practitioners, though bailiffs still accounted for one-fifth of the officials responsible for providing first intelligence on criminal misdeeds. While a denunciation by any of these 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

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30 Blastenbrei, ‘Violence, arms and criminal justice,’ 71.
31 Ibidem, 73.
32 Rose, ‘Violence and the centralization of criminal justice,’ 108; Rose, ‘Homicide in North Italy,’ 72-73, 76.
historiography on criminal justice, but, as will be argued in the next chapter, was pivotal to urban women’s ability to employ the court to their benefit. Despite the frequent occurrence of denunciations by individuals in the urban setting, the existence of this knowledge network of official and semi-official informants spanning from the city to the far reaches of the countryside is important to the understanding of the workings of Bologna’s criminal court during the early modern period.

3 Criminal Procedures

The statutes of the Torrone were issued in 1541 through a Papal proclamation entitled Reformationes Turroni Bononiae.\(^3\) These statutes laid out the procedures and compensation of judges and notaries in criminal cases falling under the Torrone. Various phases can be distinguished in the Torrone’s criminal procedures. 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.\(^3\)

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. An inquisition 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.\(^3\)

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

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\(^3\) ASBo, Bandi e notificazioni, Serie I, No. 3, fol. 95.

\(^3\) Rose, ‘Violence and the centralization of criminal justice,’ 111.

\(^3\) Ibidem, 112.
the offender absolved. On the other hand, no fewer than 23 witnesses testified against reseller Margarita Cesare, who promised to resell jewellery and pieces of clothing for various artisans but never delivered the payments, and was eventually sentenced to public lashing and exile for swindle. 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.

Defendants were questioned in a closed room, were generally without counsel, and were unaware of the charges, accuser and evidence. When the aforementioned Margarita Cesare was brought in for questioning for swindle (truffa), she was not told why she had been arrested. This was business as usual; in general, the interrogator first circled around the issue, collecting clues and looking for inconsistencies, and when stories did not match up they would confront defendants with other testimonies at their discretion. Margarita’s portrayal of her actions as an honest, one-time mistake, for example, became increasingly unconvincing when confronted with a range of testimonies that revealed a chain of deceit 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.

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. Judges also 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, it was not until the Zanardelli Code of 1889 that

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36 ASBo, Torrone, 7028, fasc. 6.
37 ASBo, Torrone, 7072, fasc. 1.
38 Rose, ‘Violence and the centralization of criminal justice,’ 113.
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, ‘Violence and the centralization of criminal justice,’ 114; Angelozzi and Casanova, *Donne criminali*, 230.
penal legislation was unified for Italy. Following the demise of Napoleon after 1814, various territories had started penning their own civil, criminal and commercial codes. Alongside Tuscany, Naples and Piedmont-Sardinia, the Papal States too promulgated a penal code in 1832. 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 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. 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.

During the early modern period, best sources to gauge Bologna’s norms regarding prosecution and sentencing were not the civic statutes but the criminal bylaws. 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. At the beginning of his legateship over Bologna, each papal legate issued or renewed a *Bando Generale*; a summation of proclamations specifying the definitions and sanctions of crimes for the territory of Bologna. For the seventeenth and eighteenth centuries two of these summations 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 bylaws significantly following Pope Benedict XIV’s constitutional reforms of criminal justice a decade earlier. These reforms sought to regulate the criminal procedures within its territory, increase its transparency and curb some of its abuses. It is generally assumed that this
new summation of the criminal bylaws reflected 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 bylaws predominantly prescribed capital punishments for crime. 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 bylaws were convictions to the papal galleys in the Mediterranean and corporal punishment and fines for simple infractions.

While the criminal bylaws prescribed capital punishment for a multitude of offences, the actual enforcement of the death sentence declined significantly throughout the early modern period.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 two per year in the 1690s, continued to go down.49 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. A similar discrepancy between penal norm and practice pertained to esilio (banishment): while banishment was not mentioned as a punishment for any crime in either of the two criminal bylaws, it was one of the most common penal outcomes for many serious crimes throughout the seventeenth and eighteenth centuries. In Italy as elsewhere in early modern Europe, banishment was 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.

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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 (Kirksville: Truman State University Press, 2008) 123.
49 Rose, A renaissance of violence, 52.
50 Nubola, ‘Giustizia, perdono, oblio,’ 14.
The example of banishment also illustrates how sentences did not constitute the final stage of the criminal procedure. 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 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 often the most important requirement.\(^{54}\)

According to a growing body of scholarly work, composition and peacemaking 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 peacemaking 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 peacemaking 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 from the sixteenth and seventeenth centuries onwards increasingly inserted themselves into the private disputes of their citizens, eventually in the roles of formal arbiters.\(^{57}\) This meant that peacemaking practices were increasingly

\(^{51}\) 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.

\(^{52}\) Rose, ‘To be remedied of any vendetta,’ 17.

\(^{53}\) Rose, ‘Violence and the centralization of criminal justice,’ 117.

\(^{54}\) 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; Niccoli, *Perdonare*, 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 Caroll, ‘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
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 peacemaking between high-raking 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 the government’s efforts to curtail the nobility’s violence during those volatile years of heightened violence.60 But the institutionalisation of peacemaking 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’ peacemaking 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 Ottavia Niccoli argued that 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 criminiibus (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

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58 Cavarzere, ‘At the crossroads,’ 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, Perdonare, 115.
60 Rose, ‘Violence and the centralization of criminal justice,’ 117; 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, A renaissance of violence, 54; Cavarzere, ‘At the crossroads,’ 65-67.
63 R. Mariani, ‘Criminalità e controllo sociale nella Crevalcore del seicento’ (Unpublished Master thesis, Università degli studi di Bologna, 1991) 74.
64 Niccoli, ‘Rinuncia, pace, perdono,’ 226.
dictated – from verbal insults to aggressions with serious physical consequenc-es and, more rarely, theft. The next chapter will explore this mechanism in more detail for the denunciations.

Another judicial peacemaking 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 and was supposed to bring an end to a conflict between individuals and families once and for all.66 Like the withdrawals of complaints, peace accords 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 peacemaking in early modern Italy’s criminal justice system.

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.
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 (Chicago: 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, A renaissance of violence, 55.
71 D. Edigati, ‘La pace nel processo criminale. Il caso toscano in età moderna,’ in P. Broggio and M.P. Paoli (eds.), Stringere la pace. Teorie e pratiche della conciliazione nell’Europea moderna (secoli XV-XVIII) (Rome: Viella, 2011) 408.
Italian Women’s Involvement in Recorded Crime

While the criminal procedures and bylaws in themselves may at first glance appear relatively gender neutral, there were significant differences in men’s and women’s experiences of the law. Women’s small proportional contribution to recorded crime can be viewed as an expression of these differences, standing testament to the freedoms and restrictions women encountered on the streets and before the courts. It is in this light that studies on the late medieval and Renaissance period paint a rather bleak picture of the centuries thereafter. Samuel Cohn’s important study on fourteenth- and fifteenth-century Florence suggests a diminishing participation of women in crime. 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).72 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). The notion that Italian women were increasingly worse off has readily captured the imagination, but does require further scrutiny. After all, the Florentine statutory restrictions stemmed from Lombard law and were not universally applied throughout the whole of the Italian peninsula. Other scholarship, such as Elizabeth and Thomas Cohen’s work on Rome’s sixteenth-century Governor’s court, is furthermore suggestive of a wide involvement of both men and women in criminal offences, though they generally lack quantitative assessments to contrast the older data more substantially.73

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.74 His premise was 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 (described by Sbriccoli as obscene behaviours, fornication, concubination, as well as petty crimes) as matters of sin, disorder, irregularity

72 Cohn, ‘Women in the streets, women in the courts,’ 24, 29.
73 Cohen and Cohen, Words and deeds, 14-16.
74 Sbriccoli, ‘Deterior est condicio foeminarum,’ 81.
or censorable anomalies rather than subject to criminal justice. 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. Similar arguments have also been made for women’s misdeeds elsewhere in Europe. Rather than appearing before a high criminal court, women’s crimes were likely more commonly solved through other informal or extrajudicial spheres of social control, such as the family or the neighbourhood.

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. 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 were 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. This meant that in Bologna women comprised only about five per cent of those individuals subjected to a formal criminal investigation.80 The other available studies on Italian towns reveal equally low figures, suggesting that women represented a clear minority among indicted criminals.

The early modern period is often viewed as marking a peak for women’s involvement in crime. Records from cities in France, England, Scotland, Germany and the Netherlands reveal significantly higher shares of female criminal offenders during the seventeenth and eighteenth century than in the centuries thereafter.81 During the early modern period women in Western Europe could...

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75 Ibidem, 83-84.
76 An example of household control in criminal cases is provided by M. Gambier, ‘La donna e la giustizia penale Veneziana nel XVIII secolo,’ in G. Cozzi (ed.), Stato, società e giustizia nella Repubblica Veneta (sec. XV-XVIII) (Rome: Jouvenence, 1980) 566.
77 Dinges, ‘The uses of justice,’ 167-168.
78 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: Cambridge University Press, 1991) 292; Schwerhoff, Köln im Kreuzverhör.
79 The total number of ‘offenders’ amounts to 1,419 if we include the 62 offenders whose identity and sex are unknown.
80 The share of female defendants among urban processi was 2% in 1655, 5% in 1675, 2% in 1705 and 8% in 1725 and 1755.
81 G. Geltner, ‘No woman’s land? On female crime and incarceration, past, present and future,’ Justice policy journal 71 (2010) 6; Feeley and Little, ‘The vanishing female,’ 719-757; Jütte, ‘Geslechtsspezifische Kriminalität,’ 86-116; Van der Heijden, ‘Criminaliteit en sexe,’ 1-36.
TABLE 1  Female crimes shares in various Italian cities, averages per century

| Urban population in thousands, c.1700 | 14th c | 15th c | 16th c | 17th c | 18th c | 19th c |
|--------------------------------------|--------|--------|--------|--------|--------|--------|
| Florence                             | 72     | 20.9   | 14.1   | –      | 6.4    | –      |
| Lucca                                | 24     | 14     | –      | –      | –      | –      |
| Viterbo                              | 12     | –      | 7.9    | –      | –      | –      |
| Rome                                 | 140    | –      | –      | 11.5   | –      | –      |
| Bologna                              | 63     | –      | 3.3    | –      | 4.0    | 5.7    |
| Siena                                | 16     | –      | –      | –      | 8.8    | –      |
| Prato                                | 6      | –      | –      | –      | 4      | –      |

Sources: Florence: 14th and 15th century data: 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: Johns Hopkins University Press, 1998) 16-38; 17th century share based on own calculations from Archivio di Stato di Firenze, Ruota Criminale, Gionale della Ruota, 37 (July-October 1695), 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 procesi 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)'.

make up to 50 per cent of all property offenders, while they were only responsible for about 16 per cent of these crimes in the twenty-first century.82 Based on data on cities in England and the Netherlands, criminologist Malcolm Feeley

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82 European sourcebook of crime and criminal justice statistics 2014 (Helsinki: Hakapaino Oy, 2014) 89.
argued that female involvement in crime dropped after the middle of the nineteenth century as a result of increasing patriarchal structures pushing women out of the public sphere. This notion of the ‘vanishing female’ has been criticised by various scholars, who did not only question why such a decline occurred but also when and where. Women’s relatively high shares among early modern offenders, however, appear largely uncontested.

There is little evidence so far that the early modern period was also the heyday of women’s criminality in Italy. Although the aggregated data is too sparse and disparate to draw definite conclusions, there are no known examples of Italian women’s crime shares (based on formal criminal investigations or indictments) remotely as high as those found in most other northern European towns. Women accounted for around 30 per cent of the criminal offenders in various towns in Holland during the seventeenth and eighteenth century, and made up 22 and 21 per cent of all suspects investigated in Frankfurt and Surrey. While longer-term studies for these European towns have demonstrated that these crime shares were in constant flux, they were consistently higher than those found for the Italian Peninsula, including Bologna. 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. To understand Italian women’s recorded involvement in crime, we should therefore also consider the effects of other societal determinants, such as cultures of honour and violence, specificities of its legal culture, and the care and control exerted by civic institutions.

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83 Feeley and Little, ‘The vanishing female,’ 750.
84 Between 1680 and 1811 Amsterdam, on average 35.2 per cent 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,’ 536, 540; Jütte, ‘Geslechtsspezifische Kriminalität,’ 93; Beattie, ‘The criminality of women,’ 81.
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, which are largely based on the contemporary descriptions found in the records 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, vulnerare 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 is based on a reading of the criminal bylaws as well as classifications by other scholars. With these 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.

The importance of violent crimes among Bologna’s criminal investigation dossiers catches the eye. As is shown in table 3, the dockets of the Torrone brimmed with violent acts ranging from insults and blows to stabbings, shootings and murder. Making up 43 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 public order and property. Formal investigations for sexual misconduct were far scarcer. Even when taking into consideration the unidentified offenders who were predominantly responsible for property crimes, violent encounters still constituted the clear majority of cases that the Torrone dealt with.

With the preponderance of violent offences among its processi, Bologna’s ‘crime pattern’ resembled that of other towns in much of premodern Italy. Both for fourteenth- and fifteenth-century Florence and sixteenth-century Rome, scholars have found violent offences to be the most important crime before criminal courts.85 By contrast, criminal courts in Holland, England and Germany were as a rule far more prone to prosecuting theft and other property offences.86 Together with data from Spain, Portugal and South West France,

85 Cohn, ‘Women in the streets, women in the courts,’ 26; Blastenbrei, Kriminalität in Rom, 284.
86 Noordam, ‘Strafrechtspleging en criminaliteit,’ 228; Old Bailey Proceedings Online (<https://www.oldbaileyonline.org/>, version 7.2, March 2015), Tabulating offence
**Table 2** Categorisation of crimes

| 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 |

**Table 3** Reported crimes among Bologna’s processi, ca. 1655-1755

|          | Male defendants | Female defendants | Total identified defendants* | Unidentified 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 | – – |
| Misc. | 7 1 | – – | 7 1 | – – |
| Total | 1287 100 | 70 100 | 1357 100 | 62 100 |

*Calculated from the total of defendants whose sex is known, counted by defendant*

Source: Sample 1 (see appendix).
the Bolognese case study thus provides tentative 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.87

Violent altercations continued to make up a significant portion of the Bolognese criminal court cases all throughout the mid-seventeenth to mid-eighteenth century. Both in 1655 and 1755, violent offenders constituted the largest category of criminals investigated by the Torrone, although their share among the total body of recorded crime dropped from nearly 60 to just under 40 per cent during the century (figure 6). But this seemingly significant drop in violence is deceiving: foremost because the particular caseload from 1655 and 1675 are by-products of exceptional social disorder following the plague years, and the subsequent increase of policing of arms-bearing in the city to curb the reinvigorated endemic violence. On the whole absolute numbers of violent offenders investigated by the Torrone furthermore increased rather than declined throughout the century. The distribution of crimes filling court dockets after the turn of the century seems relatively stable, but they do reveal a small proportional increase of property offenders scrutinised by the court which could potentially be indicative of a longer-term shift. Siena's criminal court handled violence and property crimes in roughly equal proportions in the 1730s and 1750s, but saw the proportional importance of property offenders rise between 1778 and 1786.88 Records from Prato's vicariate court between 1781 and 1790 also suggest that by this time property crimes constituted the lion's share of judicial consideration.89

In spite of the enduring importance of violence before the Torrone, women mostly faced formal charges for property crimes. No less than 39 per cent of the female offenders were accused of thieving and other larcenous activities, compared to only one-in-four of their male counterparts (table 3). This distinction cannot be reduced to biological and physical predispositions, in which women's lesser physical strength is equated to their more limited violent transgressions, but instead reflects the profound influence of gendered

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87 T.A. Mantecón, 'The patterns of violence in early modern Spain,' *The journal of the historical society* 72 (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.
88 Sardi, 'Analisi statistica sulla criminalità,' 351, 355-368, 376-377, 402, 412.
89 Zuliani, 'Reati e pene nel vicariato di Prato,' 310.
norms and prosecution policies. Magistrates had significant discretionary powers and did not deem all offences by all offenders equally worthy of prosecutions. Women’s violence in particular may have been of little interest to early modern authorities, as it was believed to have posed little threat to public order, which could easily translate into fewer indictments. Bologna’s criminal court records indicate that women’s violence was indeed disproportionately dismissed by the Torrone’s judges. This manifested itself in the clause of non proceditur stante qualitate facti et personae: the decision to not proceed with the prosecution due to the qualities of the facts and the persons involved. According to Angelozzi and Casanova, invoking this clause 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.

For an overview of the literature discussing these different perspectives, see Crouzet-Pavan, ‘Crimine e giustizia,’ 56-57; Angelozzi and Casanova, Donne criminali, 12; Van der Heijden, Women and crime, 9-10.

J.R. Ruff, Violence in early modern Europe, 1500-1820 (Cambridge: 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; 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.

Angelozzi and Casanova, Donne criminali, 55, 259.
That the patterns emerging from the *processi* do not allow for any straightforward generalisations about women’s less violent nature is also evident from a comparison with the early-stage denunciations. 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, which was reduced in the *processi* to 44 per cent of men’s crimes and 33 per cent of women’s. At the level of the investigations violence thus played a less important role for both men and women, but the discrepancy is particularly striking for the female defendants. Women furthermore made up only four per cent of violent transgressors among the *processi*, whilst their share had roughly been five times that among the denunciations. The opposite can be said for property crimes, where only 11 per cent of the female offenders had been accused of these types of crimes at the level of the denunciations, compared to 39 per cent among the *processi*. This discrepancy can also be observed for men – with property crimes 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. Women were also responsible for 8 per cent of all investigated thefts – twice the share of women among offenders of violence. For a more accurate understanding of women’s involvement in everyday crime, it is therefore imperative to look beyond only those offences that the authorities deemed worth prosecuting.

Roughly as important among the offences investigated were myriad acts against public order. About a quarter of men and women were indicted for behaviours that disturbed the public peace, such as gambling, illegal dances and the throwing of stones, often in groups. Another prevalent public order offences 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. This ambition was reflected in the 1610 *Bando Generale*, which prohibited the carrying of a wide range of arms, such as swords, long-bladed weapons and firearms, in Bologna without a licence. Both the city’s gatekeepers and its lawmen, the *sbirri*, were given detailed

93 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.
94 Rose, *A renaissance of violence*, 186; Blastenbrei, ‘Violence, arms and criminal justice,’ 75;
95 *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.

*Bando generale Giustino nio 1610*, chapter xxiv, page 43-51.
instructions on how to manage the transgression of these bans and they indeed confiscated weapons on a daily basis. 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. Large numbers of summonses were given out on a daily basis for unlicensed weapons, meaning that these arms were constantly to be found among the male Bolognese populace.  

A highly gendered 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. The roots of this criminalisation of women’s mobility lay in the sumptuary and spatial regulations of prostitutes, seeking 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 penalty of public lashings, ridicule or banishment. While these regulations were poorly enforced, it is imperative to stress the implications of these restrictions for the public perception of women present in the urban space. According to the bylaws, respectable women could travel the streets after dark, but only when they were accompanied by their husbands or male kin. 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. 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 for unknown reasons. By the seventeenth and eighteenth centuries, there was no such enforcement of restrictions on men’s mobility in the city.

Another crime category that is assumed to have received a decidedly gendered treatment is the one of sexual or moral transgressions. Many early modern European courts considered behaviours such as prostitution, adultery, fornication, concubinage, and illegitimacy as punishable criminal offences;
offences for which women were prosecuted disproportionally. Bologna’s criminal court saw relatively few of these kinds of cases: only 3 per cent of the defendants (45 men and 3 women among a total of 1419 offenders) were accused of these kinds of crimes of a sexual nature. That prostitution was taxed rather than criminalised in early modern Italy may be part of the explanation for the low numbers of women among those accused of moral crimes. The Torrone did furthermore not have complete control over cases relating to marriage and sexuality, as it was the archbishop’s court that exercised jurisdiction over matrimonial disputes and crimes against the sacraments such as pre- and extramarital sexuality. The few ‘crimes of the flesh’ that were brought within the purview of the Torrone predominantly concerned incidences of stupro – literally meaning ‘rape,’ but often used to designate not forced intercourse but rather consensual premarital sex followed by a broken marriage promise. Through the criminal court, the victim or her kin could try to 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. Overall, the defendants accused of crimes of the flesh were rarely sentenced because of the importance of these infrajudicial negotiations.

Although there were important gender-specific characteristics of indicted crimes, the crimes of men and women in early modern Bologna were in many ways more similar than distinct. The Bolognese court records do not allow for a clear-cut differentiation between ‘male’ and ‘female crimes.’ 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 like men did. Other scholars have argued in a similar vein. In an examination of theft in late medieval Bologna, Trevor Dean 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. 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.”

103 Schwerhoff, ‘Geslechtsspezifische Kriminalität,’ 9; Van der Heijden, ‘Criminaliteit en sexe,’ 16.
104 Lombardi, ‘Marriage in Italy,’ 120, footnote 46; Angelozzi and Casanova, Donne criminali, 60; Ferrante, ‘La sessualità come risorsa,’ 995; Bando generale Serbelloni 1756, 92.
105 Bando generale Serbelloni 1756, 91.
106 Dean, ‘Theft and gender,’ 400.
107 Ibidem, 412.
about these criminal behaviours was above all how they were perceived and treated.

6 Gender Dynamics in the Sentencing of Crimes

How and to what extent men and women were prosecuted and sentenced for their crimes was decidedly influenced by gender norms and prosecution policies. The question of whether women benefitted from a milder or harsher treatment has been at the forefront of discussions about historical patterns of prosecution in relation to gender. According to the prevalent ‘chivalry theory’ legal professionals were inclined to treat women with leniency on the assumption of their weakness and need for protection. This weakness was codified in Roman law through the notion of the *fragilitas* or *infirmitas sexus*, a status that in the interpretation of Renaissance jurists likened a woman’s legal capacity to that of a child or handicapped person. In the role of plaintiffs, women could be excluded from making criminal accusations and, as witnesses, their testimonies were theoretically regarded as less reliable than men’s. The chivalry theory furthermore assumes that legal professionals were generally paternally inclined to protect these ‘weak women’ by treating them with leniency. This could mean that women’s culpability was called into question, that they were not prosecuted for the same kinds of crimes, and 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. Peter King and others have emphasised a possible leniency on the part of magistrates during the punishment process in England too: for a similar crime, women were treated less harshly.

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108 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.

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

110 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; Graziosi, ‘Women and criminal law,’ 172; Kuehn, ‘Daughters, mothers, wives and widows,’ 99.

111 Angelozzi and Casanova, *Donne criminali*, 227-54; M. Graziosi, ‘Women and criminal law,’ 173.

112 Angelozzi and Casanova, *Donne criminali*, 47, 227-254; Graziosi, ‘Women and criminal Law,’ 173; Buttex, ‘L’indulgence des juges?,' 41-65.

113 P. King, ‘Gender, crime and justice in late eighteenth and early nineteenth-century England,’ in M. Arnot and C. Usborne (eds.), *Gender and crime in modern Europe* (London:
The judicial leniency towards women was by no means a constant. Various scholars have argued that the treatment of men and women differed significantly per crime category.\textsuperscript{114} While leniency may have been applied to women’s violent misdeeds, crimes such as infanticide and witchcraft were excluded from such a milder treatment.\textsuperscript{115} The judicial treatment of women also differed from one legal system to another and from place to place.\textsuperscript{116} Contrary to King’s assessment of various English towns, Walker, for example, argued that women were generally worse off than men in seventeenth-century Cheshire: women were disproportionally put on trial for homicide, were found guilty relatively more often than men, and were almost twice as likely to receive a death sentence.\textsuperscript{117} 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 a close contextual examination of the law and penal practice is pivotal to the understanding of the relation between sentencing patterns and gender.

An important aspect about early modern criminal justice is that a significant proportion of the cases brought before criminal courts were never concluded with a formal sentence. This was also the case in early modern Bologna, where only one in five \textit{processi} resulted in what Angelozzi and Casanova called ‘real sentences,’ such as the death penalty, incarceration, banishment, a sentence to the galleys, corporal punishment or fines (table 4).\textsuperscript{118} Even including pardons this still only amounted to about one-third of the total caseload, regardless of gender. Just under half of the outcomes of \textit{processi} were injunctions to compel parties to peace or to re-appear in court, sureties, and the halting of investigations for a variety of reasons such as insufficient evidence or the plaintiff’s withdrawal of the complaint.

In the past these unconcluded cases were primarily viewed as the products of a highly flawed and inefficient judicial system, but 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

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\bibitem{} \textbf{ucl Press, 1999} 66-67; Palk, \textit{Gender, crime, and judicial discretion}, 161, 176.
\bibitem{} \textbf{114} Buttex, ‘L’indulgence des juges?’, 61; Angelozzi and Casanova, \textit{Donne criminali}, 227-254; Sbriccoli, ‘Deterior est condicio foeminarum,’ 85-86.
\bibitem{} \textbf{115} Angelozzi and Casanova, \textit{Donne criminali}, 230.
\bibitem{} \textbf{116} R.N. Tsakiri, ‘Deviance and morals. A study of sixteenth-century Crete under Venetian rule. An initial exploration,’ \textit{Crimes and misdemeanor} 1:2 (2007) 166.
\bibitem{} \textbf{117} Walker, \textit{Crime, gender and social order}, 113, 158, 197-201.
\bibitem{} \textbf{118} Angelozzi and Casanova, \textit{Donne criminali}, 228, 230.
\end{thebibliography}
number of cases without a formal conclusion were also the outcome of the strategic use of juridical procedures by ordinary men and women.\footnote{Dinges, ‘The uses of justice,’ 159-175; Dean, Crime and justice in late medieval Italy, 19-20; Niccoli, ‘Rinuncia, pace, perdono,’ 234.} He argued that people often did not litigate solely to achieve a conviction from the court, but to try and negotiate other kinds of out-of-court settlements.\footnote{Dinges, ‘The uses of justice,’ 161.} In this light, recourse to the court should be seen as part of a wider set of formal and informal means of social control. The authorities were also not that interested in punishing each crime that came before the criminal court. While normative writings like Bologna’s summations of criminal bylaws prescribed harsh sentences for many crimes, criminal courts regularly mitigated the rigour of the law in practice.\footnote{M. Bellabarba, La giustizia nell’Italia moderna (Bari: Editori Laterza, 2008) 84.} They did so because, ultimately, their goal was to maintain peace and order, if possible by mending the inflicted societal wounds through peacemaking, giving pardons and reintegrating the culprit into the community.\footnote{Rose, A renaissance of violence, 54.}

The importance of the objective of peacemaking and reintegration can be gleaned from the outcomes of Bologna’s processi. Overall, about 13 per cent of

|                          | Female defendants | Male defendants | Total |
|--------------------------|-------------------|----------------|-------|
| Real sentences\textsuperscript{a} | 15 21%            | 242 19%        | 257 19% |
| Pardoned (gratia)       | 6 9%              | 172 13%        | 178 13% |
| Secondary sentences\textsuperscript{b} | 12 17%            | 128 10%        | 140 10% |
| Cancelled\textsuperscript{c} | 22 31%            | 455 35%        | 477 35% |
| Unknown                  | 15 21%            | 290 22%        | 305 22% |
|                          | 70 100%           | 1287 100%      | 1357 100% |

\textsuperscript{a} Include death sentence, galleys, exile, incarceration, corporal punishment, fine

\textsuperscript{b} Include precetto criminale, surety

\textsuperscript{c} Includes a small proportion of those found not guilty, as well as cases cancelled due to insufficient evidence and peacemaking.
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.\textsuperscript{123} Defendants could particularly expect to receive a pardon for acts of violence, where peacemaking between the offender and the victim or his/her family was believed to have restored the social equilibrium. In Bologna in 1600, nearly 40 per cent of convicted killers received a pardon.\textsuperscript{124} 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.”\textsuperscript{125} Another one-third of the defendants saw the cases against them 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 process’s outcomes.

Another 10 per cent of all defendants were discharged with a surety or a criminal injunction (\textit{precetto criminale}). Angelozzi and Casanova distinguished these outcomes from ‘real sentences’ because the surety and the criminal injunction were ultimately conditional sanctions.\textsuperscript{126} 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 evidence was found.\textsuperscript{127} The \textit{precetto criminale} was an injunction that could be imposed for a wide variety of crimes that in one way or the other disturbed public order, and consisted of a conditional fine or sentence that would not be forfeited if the defendant upheld the requirements defined in the injunction.

Overall the outcomes were roughly comparable for female defendants and their male counterparts. Once a case was investigated by the Torrone, men and women had roughly the same chances of receiving ‘real punishments’ and of having the cases against them cancelled. Yet pardoning may have been a somewhat more prevalent outcome for male defendants. Addressing the question of sex ratios in pardoning in premodern France, Natalie Zemon-Davis argued that such a discrepancy was explained by the fact that the crimes traditionally

\textsuperscript{123} Abreu-Ferreira, \textit{Women, crime and forgiveness}, 3.
\textsuperscript{124} Rose, \textit{A renaissance of violence}, 91.
\textsuperscript{125} G. Hanlon, ‘Violence and its control in the late Renaissance: An Italian model,’ in G. Ruggiero (ed.), \textit{A companion to the worlds of the Renaissance} (Oxford: Blackwell, 2002) 147.
\textsuperscript{126} Angelozzi and Casanova, \textit{Donne criminali}, 230
\textsuperscript{127} Ibidem, 229.
associated with women, such as infanticide and witchcraft, were not pardonable.\textsuperscript{128} 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. In proportional terms women’s \textit{processi} more often concerned property offences, while pardons were predominantly requested and granted for acts of violence and aggression.

Another interesting difference lies in the category of the ‘secondary punishment’ of the \textit{precetto 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. Women appear to have been 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.\textsuperscript{129}

The criminal injunctions that male and female defendants received also differed in their form. Among the denunciations, ‘peace orders’ (\textit{precetto de non offendendo}) were most prominent, requiring offending parties to keep the peace. Among the \textit{processi}, however, these peace orders made up only about one-third of the \textit{precetti} received. Another one-third of the men receiving a criminal injunction were ordered to remain available to the court for any future interrogations (\textit{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 (\textit{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.\textsuperscript{130} For female defendants, the requirement to remain available for future questioning also made up a third of the criminal injunctions. Injunctions to keep the peace were far less prominent outcomes for female defendants in the \textit{processi}, as only one out of 12 female defendants received a \textit{precetto de non offendendo}. Orders for women to improve their lives (\textit{precetto de bene vivendo}) were more prominent, but did not concern their working lives as they did for men. In five cases these injunctions came with specific instructions not to wander outside at night-time (\textit{precetto de bene vivendo e de non vagando di notte}). This was not

\textsuperscript{128} Zemon Davis, \textit{Fiction in the archives}, 85.
\textsuperscript{129} The same can be deduced from the data provided by Angelozzi and Casanova, although they themselves have not argued this. See Angelozzi and Casanova, \textit{Donne criminali}, 228-229.
\textsuperscript{130} For example see ASBo, Torrone, 7598-2, fasc. 41; 8171-2, fasc. 30.
only true for the three cases that revolved around women who had wandered 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 discerned from the so-called ‘real sentences.’ While it was neither a requirement nor common practice to substantiate pronounced sentences in the criminal records, the judges’ significant discretionary space resulted in some evidently gender-specific punishments. Both the prescriptions of sentences in the criminal bylaws and penal practice attest to this. The most pronounced example was the sentence to man the oars of the papal galleys in the Mediterranean Sea: a common punishment replacing death sentences from the seventeenth century onwards, never imposed on women.¹³¹ Corporal punishments were also administered differently 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. 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

¹³¹ Terpstra, ‘Theory into practice,’ 123; Rose, A renaissance of violence, 52.
gate, followed by a predetermined number of jerks to the cord. Women instead received a public whipping through the streets, without being undressed. As a sentence on its own, corporal punishment was very rare: it was more commonly used as an additional punishment before being banished or sent to the galleys, or as a conditional penalty for a breach of criminal injunctions (precetto criminale).

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. Executions were hardly a daily event, and furthermore declined significantly throughout the seventeenth century. Out of the seven male defendants who received a death sentence, as many as five were convicted in the sample year of 1655, mostly for homicides. While my samples for Bologna do not contain any women 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 on trial for murder in their sample received a capital punishment, one in 1587 and the other in 1728.

A much more common penalty than capital punishment was banishment. Like elsewhere in early modern Italy, esilio (often combined with the confiscation of goods) was the punishment most frequently imposed on defendants in Bologna. Being convicted of theft was the most prevalent reason for banishment, followed by various often undefined acts of ‘suspicious behaviour’ associated with a mobile, unrooted lifestyle (about a quarter of those convicted). Incarceration was less common during the early modern period than it is today as it was regarded as unnecessarily cruel, unproductive and expensive. In the five years sampled for Bologna, 23 defendants were 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, at Bologna’s poor house established in 1563 (mainly but not exclusively women), or were (more rarely) sentenced to a private incarceration.

To what extent can these gender differences in sentencing be understood as a milder treatment stemming from the magistrates’ chivalric attitude? According to Angelozzi and Casanova these sentencing patterns do reveal a certain indulgence towards female offenders. First, they argue that women’s overall

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132 Cohen and Cohen, *Daily life in Renaissance Italy*, 120 and Angelozzi and Casanova, *Donne criminali*, 231.
133 Ibidem, 120, 122; Terpstra, ‘Theory into practice,’ 123.
134 Angelozzi and Casanova, *Donne criminali*, 228-229.
135 Cohen and Cohen, *Daily life in Renaissance Italy*, 122.
136 *Le chiese parrocchiali della diocesi di Bologna, ritratte e descritte* (Bologna 1849), n.p., section 47 on ‘Castelfranco’; Terpstra, *Cultures of charity*, 23, 40.
chances of receiving real sentences for their crimes were considerably slimmer than for men. They do not base this conclusion on the processi alone, but on the whole legal process: 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.\footnote{137} Women were more often issued secondary sentences instead; a mechanism possibly related to the notion that certain crimes were perceived as less dangerous or threatening 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.\footnote{138}

Second, ideas about women's criminal responsibility and culpability were contingent on the context of the crime. Female offenders were in general taken less seriously by the Torrone’s judge if they had one or more male co-offenders. Regardless of whether women were accused of complicity or instigating the crime, the notion of a woman's weakness worked in her favour as she was then punished less severely than her male co-offenders, or not at all.\footnote{139} While a woman was certainly regarded as an actor capable of criminal behaviours, ideas regarding the ‘qualities’ of her person resulted in a gender-specific pattern of sentencing.

7 Conclusion: Distinguishing Features of Women’s Prosecution

Indications that the criminal justice system’s treatment of women was decidedly gendered are plentiful. As elsewhere in early modern Europe, the Bolognese authorities had a large arbitrium in deciding an appropriate penalty for a crime, in which one’s sex was an important determinant. It is commonly believed that premodern women were able to benefit from judges' indulgence when they committed crimes not traditionally viewed as ‘typically female.’\footnote{140} 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

\footnote{137} Angelozzi and Casanova, Donne criminali, 230, 259.
\footnote{138} Gray, ‘The regulation of violence in the metropolis,’ 79-81; Angelozzi and Casanova, Donne criminali, 259.
\footnote{139} Angelozzi and Casanova, Donne criminali, 239, 242.
\footnote{140} Buttex, ‘L’indulgence des juges?’, 61; Angelozzi and Casanova, Donne criminali, 230.
annulled more often, but women did receive relatively more secondary sentences than their male counterparts – arguably as a result of their crimes being viewed as less serious or dangerous. The observation that women who had offended alongside men were more likely to receive a lesser sentence, such as Diamante in the opening example, strengthens this argument.

While the differentiated treatment of men and women by criminal courts was no unique feature of the Bolognese case, other features were more salient. The examination of the Torrone’s investigation dossiers bring to the fore two important features: the first being the very large role that violence played in Bologna’s criminal proceedings. Antico regime Italy has indeed commonly been described as a particularly violent society, distinguishable from northern European models of delinquency by its sustained and much higher share of violence. As the 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. This raises the question of the extent to which this low share of female offenders can be attributed to the dominant cultures of honour and violence, which are often described as distinctly masculine and prescribed passivity for women. However, a careful reading of the court documents reveals distinctly that the processi were also the results of societal filters and biases.

One of the mechanisms that may have affected women’s involvement in recorded crime was the existence of an extensive institutional web of care and control in early modern Italy. In discussing limitations to women’s freedoms, it is often 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 early modern Italy apart is the important role played by a host of semi-public

141 Calzolari, ‘Delitti e castighi,’ 55; Niccoli, ‘Rinuncia, pace, perdono.’ 223; Black, Early modern Italy, 188; 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.
142 Ruff, Violence in early modern Europe, 75; Brackett, Criminal justice and crime, 133-134.
143 Palazzi, ‘Female solitude and patrilineage,’ 445; Kuehn, ‘Daughters, mothers, wives and widows,’ 98; Cohen, ‘Evolving the history of women,’ 326; E. Canepari, ‘Civic identity, “juvenile” status and gender in sixteenth and seventeenth-century Italian towns,’ in D. Simonton, The Routledge history handbook of gender and the urban experience (London/ New York: Routledge, 2017) 183-184.
charitable institutions in connecting spheres of control for women at the fringes of society.\textsuperscript{144} 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. The care that these early modern institutions provided did not only reduce the need for women to engage in crime as a survival strategy, but likely also obscured deviant practices elsewhere brought within the purview of criminal court magistrates.

Early modern Italy’s judicial culture also played an important role in the relative scarcity of criminal women among the formal investigation dossiers. Bologna’s \textit{processi} represent the cases for which the criminal court was willing and able to start an inquisition, demonstrating the authorities’ concern in repressing lethal and life-endangering forms of violence as well as in crimes against property. Yet the \textit{processi} only represented a fraction of the cases brought to the Torrone’s attention: after all, there were about nine denunciations for each formal inquisitorial trial.\textsuperscript{145} The overwhelming majority of these far more plentiful denunciations concerned so-called ‘minor crimes,’ such as petty acts of violence, for which peacemaking and extrajudicial conflict resolution was encouraged. The shares of female offenders were much higher among these types of crimes, possibly because women’s crimes were more readily regarded as ‘petty’ to begin with. The combination of the authorities’ prosecutorial filter and a 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.

\textsuperscript{144} Woolf, \textit{The poor in Western Europe}, 24.
\textsuperscript{145} Angelozzi and Casanova, \textit{La giustizia in una città di antico regime}, 565, 643.