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Introduction

THE changes in penal policy and policing from the mid-eighteenth to the mid-twentieth centuries are relatively well known, but they have generally been written up with the focus of the subject matter limited by the boundaries of separate nation states, of local regions or even of individual cities or towns. The changes, however, and the ideas and models that guided them were not restricted to nation states, even though different cultural, political, and social contexts led to them taking unique forms in different countries and regions. A chronological narrative of these changes is the subject matter of this book. This introduction is designed to provide a broad, brief survey of what follows and, more particularly, to give an outline of the theories that some deploy to explain the changes but which can be used, more profitably, as tools for structuring questions that need to be posed of the historical evidence.

A key element in any historical study is assessing change over time, the causes and the pattern of that change. Certain behaviours by and between individual human beings have a degree of constancy. One individual's actions directed against another individual can be regarded by the latter as a 'wrong'. Sometimes these wrongs are acknowledged as such beyond the individuals involved in them. Thus a community can perceive a particular wrong as an infringement of its socially accepted norms and in some instances the wrong can be categorized as an offence within a written criminal code. This is essentially what is meant by the statement that crime is constructed by society.

Criminal laws vary between different societies. While certain offences, most obviously forms of homicide and theft, have been regarded and categorized as crimes by the law in Western societies for centuries, on the fringes the criminal law is constantly changing. Similarly perceptions of what is and is not criminal, or acceptable, are constantly shifting. This means that crime is not an absolute. It is now readily recognized, at least in academic circles, that the ways in which societies have defined and dealt with crime and criminals

have changed significantly over time. Moreover, different geographical areas, economic conditions, population, and social structures have provided contexts for different forms of offending. As these contexts have changed, so too have forms of criminal behaviour.

The period from the late eighteenth to the early twentieth centuries witnessed enormous changes in the perception of crime and criminality and in the ways in which these issues were addressed by states through their laws and through administrative and institutional structures. The process of change was not linear; historical change rarely is. Perhaps the most obvious example of this is the way in which the emphasis in penal policies shifted, pendulum-like, from retribution to reform and back across the period. Similarly, in the face-to-face communities of the old regime and rural world it was common for courts to make decisions based on some personal knowledge of the offender. The rational legal theorists of the Enlightenment, in contrast, sought uniformity of punishment according to the crime. Then, at the close of the nineteenth century, as the offender began to be seen as a fallible individual, often with mental and social problems, so the courts tended to make decisions that were perceived as relevant to the particular offender.

There were considerable variations in the perceptions of offenders and in the creation and use of new institutions between states, across states, and across regions. There were also variations amongst individuals who were members of the same polity. The state jurist, for example, commonly dealt with abstract situations but explored the issues consistently and regularly. Jurists and other official actors also became more secular in their outlook across the period; they made growing claims of professionalism and unique expertise in the exercise of their duties. Their numbers grew with the increasing bureaucratization and regulation imposed during the nineteenth century and beyond. Crime was their business. The victim of a wrong, or a crime, in contrast, had to deal with something that was usually unpleasant and upsetting, but probably he or she was a victim only once in a lifetime.

Across Europe during the nineteenth century new legal codes were prepared for nation states and empires. There was the development of professional, bureaucratic police institutions and the replacement of public, physical punishment on the body of an offender by the closed institution of the prison. Throughout the whole period there were shifts in the ideas about what caused crime and about those who were responsible for committing it. In the religious environments of the Middle Ages and the Reformation,

crime was commonly equated with sin and with temptation prompted by supernatural powers. But from the Enlightenment especially, the criminal was increasingly perceived as an individual making rational decisions about his behaviour. In the rational, scientific, and increasingly secular age that emerged during the nineteenth century, however, heredity and forms of mental illness were seen as significant causes of criminal activity. Such shifting perceptions were accompanied by a growing faith in the idea that social problems might be resolved in large measure by the state. Increasingly from the late eighteenth century many at the centre of political power considered that the state and its agencies were the only authoritative bodies capable of acting upon the relationships between offenders and their victims. These shifts and developing beliefs affected both policing practices and strategies, and also the attitudes of the courts when it came to decisions on guilt and sentencing. Yet, at the same time, in some areas there continued to be a dynamic relationship between the burgeoning state and private philanthropy; this was especially apparent in the responses to juvenile offending and the correction of 'fallen' women.

A variety of explanations have been deployed to explain these changes, some carefully articulated and others much less so. Several of the prominent social theorists who lived during the two centuries covered here formulated ideas and theories that helped to shape different understandings of crime and responses to it. Karl Marx and Émile Durkheim are the obvious examples. Recent historical research has also turned to more recent theorists, notably to the German sociologist Norbert Elias and to the French philosopher Michel Foucault. But a theoretical underpinning for action or interpretation is not always articulated either by historical actors or by historians. Throughout the period penal and police reformers considered themselves as progressive and humanitarian. These beliefs fed into the early historical surveys and created a Whig interpretation of change, generally assumed rather than articulated, that tended to take reformers at their word, to see changes in penal policy and policing as progressive and to portray opponents and critics of the changes as foolish or reactionary. The idea of the Whig interpretation of history was delineated in the 1930s by Herbert Butterfield and with reference to explanations of political change in late eighteenth- and nineteenth-century Britain.[1] Whig ideas remain embedded in many of the popular histories of crime and the institutional histories of police and penal policy in Britain and they are implicit also in much of the traditional understanding of the

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[1] Herbert Butterfield, *The Whig Interpretation of History*, London: G.Bell and Sons, 1931.

changes in other countries. They commonly presuppose a social order based on consensus in which the criminal is an identifiable, alien 'other' that preys upon ordinary, law-abiding citizens.

Karl Marx, in contrast, considered that class conflict, emanating from economic relationships, was at the heart of society. Yet, somewhat surprisingly, outside of a series of articles for the *Rheinische Zeitung* on the debates in the Rhenish Parliament on wood theft during the autumn and winter of 1842 to 1843, he made relatively little reference to crime.[2] The most extensive and authoritative Marxist account of the relationship between economic conditions and crime was written by a Dutch Professor of Law, Willem Adriaan Bonger, a decade before the First World War.[3] But Marx's work inspired some of the early criminologists such as the Italian Enrico Ferri who used 'scientific socialism' to delineate how each phase of civilization has its own form of criminality:

As there was a criminality of violence and bloodshed in feudal society, a criminality of robbery and fraud in bourgeois society, so the society of the future will have its own appropriate character. . . . [N]atural crime passes more and more from material forms of violence into the intellectual forms of cunning and fraud. It thus reproduces the evolution by which man ceaselessly gets further and further away from his animal and savage origin. Crimes against property, especially in the numerous forms of indirect robbery, become more and more numerous in comparison with crimes of bloodshed. Even the latter assume forms more and more intellectual, and homicide itself is contrived with craft instead of with violence.[4]

This perspective can be seen also as an early form of the *violence au vol* concept that, towards the close of the twentieth century, became particularly popular with French historians surveying crime over the *longue durée* and describing the change from medieval to modern. This concept suggested a shift in the pattern of crime from one in which violence predominated to one in which the principal form of offending was some form of theft.[5]

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[2] Pierre Lascoumes and Hartwig Zander, *Marx: du 'vol de bois' à la critique du droit*, Paris: Presses Universitaires de France, 1984; see also Paul Phillips, *Marx and Engels on Law and Laws*, Oxford: Martin Robertson, 1980.

[3] Willem Adriaan Bonger, *Criminalité et conditions économiques*, was first published in Amsterdam in 1905. There was an English translation, *Criminality and Economic Conditions*, Boston: Little, Brown, 1916, and a much edited version, Bloomington: Indiana University Press, 1969.

[4] Enrico Ferri, *Criminal Sociology*, Boston: Little, Brown, 1917, 179; repr. New York: Agathon Press, 1967.

[5] Emmanuel Le Roy Ladurie, 'Violence, délinquance, contestation; de la violence à la filouterie', in Georges Duby and Armand Wellon, eds., *Histoire de la France rurale*, ii. *L'Âge classique des paysans 1340–1789*, Paris: Seuil, 1975.

Marx's theories also inspired one of the earliest attempts to explain the changing patterns of punishment. For Georg Rusche and Otto Kirchheimer punishment was a social phenomenon the form of which was structured in accordance with the dominant mode of production during the period in question. Penal punishment, in their reading, appears as another element within the broad strategy of ruling groups for controlling and managing the poor. Rusche and Kirchheimer's book had a long gestation, was eventually published on the eve of the Second World War but remained relatively unknown until a new edition, together with Italian and German versions, appeared at the close of the 1960s.[6] The new edition appeared at the same time as both a radical critique of prisons systems and the first wave of the recent research into the history of crime, which, while not necessarily Marxist, was underpinned by a perception of societies divided by class conflict.

In a detailed study of suicide the sociologist Émile Durkheim developed the notion of *anomie* by which he meant the disruption, even disappearance of value systems among individuals in the expanding cities of the nineteenth century. *Anomie* was subsequently applied by some criminologists as a way into explanations of crime. The idea that immigrants moved into burgeoning nineteenth-century cities and resorted to crime because they lacked any welfare assistance or traditional support networks was popular during the period itself and it has underpinned some of the work on nineteenth-century crime, though not always with any genuflection towards Durkheim.[7] It is much the same with certain of Durkheim's other ideas. He stressed, for example, that crime was something normal within society. Indeed it had a useful function to the extent that it enabled a society to identify and maintain its norms. The identification and subsequent punishment of an offender was a statement of a society's common indignation and common morality. And, at a time when penologists were claiming to develop rational punishments to reform the convict, he had no qualms about identifying passion as something at the heart of the punishment of offenders.[8]

[6] Georg Rusche and Otto Kirchheimer, *Punishment and Social Structure*, New York: Russell and Russell, 1968. The origin and history of the book, which was first published 1939, are explored in the extensive introduction to the French edition by René Lévy and Hartwig Zander, *Peine et structure sociale*, Paris: CERF, 1994.

[7] See e.g., J. J. Tobias, *Crime and Industrial Society in the Nineteenth Century*, Harmondsworth: Penguin, 1972.

[8] Howard Zehr, *Crime and the Development of Modern Society: Patterns of Criminality in Nineteenth-Century Germany and France*, London: Croom Helm, 1976, is significant for the way in which it begins and ends with Durkheim. For the significance of Durkheim's concept of punishment

Like Rusche and Kirchheimer's book, Norbert Elias's concept of the civilizing process was first published on the eve of the Second World War but did not achieve significant recognition until much later. The notion of a 'civilizing process' might appear to fit easily with the Whig interpretation but Elias's intention was more wide-ranging and complex. He did not understand civilization as a linear process of progress. It was constantly evolving, but ideas of material and humanitarian progress were largely irrelevant. Elias's principal focus was on the early modern period. His main concern was how the warlike culture of knights evolved into courtly society and the processes by which, initially among elite groups, a variety of human behaviours and experiences were pushed into the private sphere.[9] While not specifically focused on crime and punishment Elias's work has been influential in recent research in the area. It can be seen to fit with the *violence au vol* concept and as a theoretical framework for assessing the long-term decline of homicide. But it has also had a particular impact on attempts to explain changes in punishment. The Dutch historian Pieter Spierenburg has been most notable in picking up upon Elias's ideas in arguing that the brutalities of the scaffold decreased and eventually disappeared as elite groups became more and more sensitive to suffering and death.[10]

Without subscribing to a Whiggish perspective it is possible to argue that the period explored in the chapters that follow did indeed experience a degree of humanitarian progress in at least parts of the subject matter under investigation. The fact that the modern state in Europe no longer inflicts violent physical punishment in public on offenders, and the fact that there is no serious chance, as yet, of such punishment being reintroduced for crime, even in private, can readily be understood as progress. It is a similar situation in those states that no longer employ the death penalty. The role of state functionaries and the courts in seeking to suppress domestic violence, specifically the chastisement of

see David Garland, *Punishment and Modern Society: A Study of Social Theory*, Oxford: Clarendon Press, 1990.

[9] Norbert Elias, *The Civilizing Process: Sociogenetic and Psychogenetic Investigations*, rev. edn., Edmund Jephcott, Oxford: Blackwell, 2000.

[10] Pieter Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression*, Cambridge: Cambridge University Press, 1984. For a combative defence of the use of Elias's theories in explaining patterns of inter-personal violence see Pieter Spierenburg, 'Violence and the Civilizing Process: Does it Work?', *CHS* 5, 2 (2001), 87–105; and for a comparison and contrast of the explanatory values of Elias and Foucault, see idem, 'Punishment, Power and History: Foucault and Elias', *Social Science History*, 24, 4 (2004), 607–36.

wives, children, and servants, was and continues to be similarly progressive. Elias's theories have considerable explanatory value in all of this. But then the use of such theories presupposes an idea of some form of successive change in history and Michel Foucault, one of the most influential thinkers of the late twentieth century, suggested that this may not be the case.

The theories of Foucault provide a sharp challenge to the comfortable Whig perspective as well as to accepted concepts of change in history.[11] A moral philosopher and committed political activist, Foucault challenged traditional ideas of development over time, arguing that knowledge in a different period was bound by limits generated within that period alone. He sought also to highlight the shifting development of power relationships, and, across a variety of publications but most significantly in his book *Discipline and Punish*, he argued that there had been a shift from judicial to disciplinary modes of power particularly over the eighteenth and nineteenth centuries. The former system centred on the force of the monarch's will and the law and was characterized by harsh punishments inflicted on the body of the offender. Disciplinary modes of power, in contrast, regulated behaviour, movement, and thought by working on the mind rather than the body. They were characterized, metaphorically, by the all-seeing gaoler in Jeremy Bentham's model prison, the Panopticon. They were sustained largely by the scientific discourse of criminologists, doctors, and psychiatrists who specified symptoms and thus diagnosed subjects. The prison, in Foucault's analysis of the modern world, was the institution in which modern techniques for controlling human beings were at their most powerful and given free rein. Moreover, criminals brought together in new prisons could be assessed by experts who drew conclusions about what distinguished the criminal from the law-abiding and then presented solutions to the problem. Foucault's history is largely French in its orientation and its source material, but since the last quarter of the twentieth century his ideas have been particularly important in generating research and debate. Marie-Christine Leps, for example, has sought to develop his work through a discourse analysis of how the apprehension of crime and criminals contributed to the spread of a cheap daily press, and to the development of education and of welfare policies that were established, at

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[11] In his review of *Discipline and Punish*, Clifford Geertz feared that with the kinds of ideas emanating from Foucault 'we seemed to be faced with a kind of Whig History in reverse—a history, in spite of itself, of the Rise of Unfreedom'. *New York Review of Books*, 26 January 1978.

least in part, to combat criminality.[12] But perhaps the most significant use and development of Foucault's ideas in this area have been made by Peter Becker.

Focusing on German sources, but with a clear eye on developments elsewhere, Becker has used Foucault's concept of discursive practice to delineate a shift during the nineteenth century from a master narrative concerning 'fallen men' (*gefallene Menschen*) to a master narrative of 'impaired men' (*verhinderte Menschen*). This shift also involved a gradual change in the kinds of men responsible for assessing the criminal. At the beginning of the century they were commonly practical men, police officers and judges, *Kriminalisten* who interacted with the criminal in public arenas and who were keen to chart his biography and to find the trigger for his descent into crime. By the end of the century the *Kriminalisten* had been largely superseded by the *Kriminologen*. The latter were anthropologists, medical men, and scientists, now described as criminologists, who saw the criminal as an object for experiment and investigation in the confines of an asylum, clinic, lecture hall, or prison. *Kriminalisten* considered the criminal as one of a group, a member of a criminal underworld who had joined that underworld by personal choice. *Kriminologen*, in contrast, were interested in the criminal as an individual and, particularly, in the extent to which he, and less commonly she, had been influenced by environment and heredity. By the end of the century the criminal was perceived as a threat to the social order not merely because of his activities but also because he was passing on his hereditary deficiencies to his offspring.[13]

Foucault's ideas have also contributed to sharpened gender awareness and a new cultural perspective in history. Crime has long been recognized as, overwhelmingly, a problem involving men, and usually young men. Female offending, at least in the period covered by this volume, was generally linked with prostitution, and much of the early work on women's crimes often focused on this issue. More recently, historians have been drawn to the ways in which women's bodies became central to any explanations of female criminality, and considerable attention has also been paid to domestic violence. This, in turn, has led to explorations of the support networks for such victims developed within communities. There have also been reviews

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[12] Marie-Christine Leps, *Apprehending the Criminal: The Production of Deviance in Nineteenth-Century Discourse*, Durham, NC: Duke University Press, 1992.

[13] Peter Becker, *Verderbnis und Entartung:eine Geschichte der Kriminologie des 19. Jahrhunderts als Diskurs und Praxis*, Göttingen: Vandenhoeck und Ruprecht, 2002. See also Peter Becker and Richard F. Wetzell, *Criminals and their Scientists: The History of Criminology in International Perspective*, New York: Cambridge University Press, 2006.

of the gender variations in property crime, contrasting the ways in which men and women often stole for different reasons and took advantage of their physical presence or form of clothing to facilitate their behaviour.[14]

The cultural turn in history has shifted interest away from measurements, processes, and structures—the driving forces behind much social history—towards representations and narratives. History has always required a close reading of texts and the need to explore their unwitting testimony, but the new cultural history, often drawing on literary theory, has brought a greater sensitivity to the reading of texts and put new emphasis on debates about truth and objectivity. For the history of crime this has sometimes meant a focus on a particular kind of source or on a particular crime or criminal which could be explored in detail as a way into a set of social relationships at a specific moment. But the cultural turn has also emphasized the great variety of texts that were used by contemporaries and that are now used by historians to construct, analyse, and seek to understand criminal events and behaviours, and their corollaries. Recent research has also emphasized how these various texts—police reports, trial narratives, and various forms of popular culture—inter-react and draw from one another. And without wishing to fetishize the text too much, there are interesting issues and complexities about many of the narratives used by historians of crime and criminal justice. Police and trial narratives often depend on the memories of individuals angered, shocked, and even traumatized by the events that they experienced or witnessed. The narratives and texts of popular culture were constructed with very different motives, yet they commonly drew on the same events; moreover, the power of various forms of culture to help formulate stereotypes often appears reflected in what might be termed the official narratives.[15]

The role and significance of power play an important part in the work of Marx, Elias, and Foucault. There is a common assumption that power is in the hands of the elite within society, and in many respects it is impossible to quarrel with this. Under the old regime the powerful were those possessing privilege and property; in the modern bureaucratic state power has spread rather more to, in particular, governments, ministers, judges, police chiefs.

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[14] Much of this work has focused on the English experience; see e.g., Shani D'Cruze, *Crimes of Outrage: Sex, Violence and Victorian Working Women*, London: UCL Press, 1998; Deirdre Palk, *Gender, Crime and Judicial Discretion, 1780–1830*, Woodbridge: Boydell Press/Royal Historical Society, 2006; Tammy C. Whitlock, *Crime, Gender and Consumer Culture in Nineteenth-Century England*, Aldershot: Ashgate, 2006.

[15] Amy Gilman Srebnick and René Lévy, eds., *Crime and Culture: An Historical Perspective*, Aldershot: Ashgate, 2005, provides a useful introduction; see in particular Srebnick's chapter, 'Does the Representation Fit the Crime? Some Thoughts on Writing Crime History as Cultural Text'.

If the system is working as the elite expects it to work, then, when a crisis emerges, the final decisions are made, and outcomes are decided by members of the ruling elite. But in the day-to-day functioning of society, power is delegated to a range of functionaries, magistrates, police, prison officers, and so on. Such delegated power can also be deployed in the interests of these functionaries as much as in the interest of the ruling elite. Finally, there are what James C. Scott described as the weapons of the weak which provide some degree of power to the poor and those with little or no say in the running of affairs.[16] The use of local dialects, of informal customary laws and sanctioning systems, and of kin networks can keep the state and its functionaries at arm's length. This was especially the case before the development of the bureaucratic nation state with its attempt to impose a unified law and language, but it was never completely suppressed during the nineteenth century. Recognition of this fragmentation of power does not negate the fact that a ruling elite, whatever its form, has the most authority and influence within a polity. But it serves to emphasize that the will of an elite, in penal policy for example, is mediated through a variety of relationships as it works down to street level, to the courts, and to the prisons.

An eclectic use of theory upsets and infuriates many purists. But a single theory rarely provides a convincing explanation for every single change and development. In particular, the major theories that seek to contribute to an understanding of changes in penal policy over time do not necessarily explain what historical actors thought they were doing. A key criticism that can be levelled at the Whig historians is that they took what penal and police reformers claimed they were doing at face value. More recently the term 'moral entrepreneur' has been appropriated to help understand such reformers. Moral entrepreneurs make a career out of identifying and raising alarm about a problem, proposing specific remedies, and offering themselves as the individuals to introduce and carry through the remedies.[17] The concept of the moral entrepreneur allows human agency; it also allows sincerity and genuine commitment on the part of human actors. On occasions, the deployment of some metahistories has reduced human actors to ciphers who acted in specific ways largely because they were required so to do because of deeper structures. A penal reformer of the

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[16] James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance*, New Haven: Yale University Press, 1987.

[17] The term was coined in Howard Becker, *Outsiders: Studies in the Sociology of Deviance*, New York: Free Press of Glencoe, 1963, ch. 8.

late eighteenth century might have thought that he was seeking to dissuade offenders from re-offending and remove what he considered to be brutal, degrading spectacles of punishment from public view. He (and I use the male pronoun advisedly since most public actors in this field were men) may indeed have considered his actions and aspirations as part of a civilizing process, though probably with much less nuance and with a rather different perception of such a process from Elias. But he would not have understood his efforts to be part of the development of what Foucault termed 'the carceral archipelago'. He may have been anxious about criminal and dangerous classes in burgeoning towns and cities, and keen to see these classes controlled, educated, and encouraged to an awareness of what he understood to be their role and their place in society. He may have had some perception of an idealized bourgeois order, but it is unlikely that his perception was of a well theorized, economically determined social structure of the kind delineated by Marx.

Historical actors generally work on a very different level to those historians and social scientists that subsequently interpret their actions in broad conceptual theories of change. Broad theories of historical change often have earnest disciples. They do not go unchallenged, not least by empiricists who charge them with inaccuracies and oversimplifications. But grand narratives can provide even the most severe empiricist or sceptic with useful hypotheses for interrogating patterns of change over time and the reasons for that change. Historians test their hypotheses and probe the past with the traces that remain of that past. What the historical actors did, created, wrote, said, and what can be deduced of what they thought, are essential to a historical understanding that keeps people at the heart of descriptions of social change and recognizes the role of chance, contingency, and compromise in both individual events and longer-term developments. At the beginning of his account of Louis Napoleon's *coup d'état* Marx commented that men make their own history 'but not of their own free will; not under circumstances they themselves have chosen but under the given and inherited circumstances with which they are directly confronted'.[18] He might also have added that things often do not turn out quite as intended. The aim of what follows here is to describe changes over time and how they have been interpreted, but also to endeavour to draw out what people thought they were doing and what they wanted to do within the pattern of change.

[18] Karl Marx, 'The Eighteenth Brumaire of Louis Bonaparte', in Karl Marx, *Political Writings, ii. Surveys from Exile*, ed. David Fernbach, Harmondsworth: Penguin, 1973, 146.

Two further points that appear often to become obscured in the search for theories of police and penal development are important to emphasize. First, laws are made by one set of actors but enforced by another. The policeman and the courts employ discretion in the ways that they use the law; indeed, there have been times when enforcers of the law significantly reshaped and remade it.[19] Second, it is important to remember that institutions created in one period are forced to adapt to changing circumstances that their creators almost certainly could never have envisaged. The courts and the police forces developed at the beginning of the nineteenth century, for example, were, by the close of the century, dealing with much bigger and more complex cities and towns, and with larger populations that had the potential for more rapid mobility. The institutions adapted, but these adaptations could push them in new directions with unexpected consequences.

Dates are important for history, especially political history, but they are not as important in the movements and patterns explored by cultural or social historians. In the case of law enforcement there can be changes in behaviour among the functionaries responsible for enforcement and implementation that stem from broad shifts in attitudes from both below, that is from the public, and above, that is from the functionaries' political masters. Setting any precise date on such changes is rarely possible. Nevertheless, political events can and did have an impact on the changes discussed in this book. The French Revolution, for example, facilitated new legal structures; the wars that followed the Revolution appeared to foster a new wave of offending and also enabled the spread of the new centralized French administrative model. Thus the chapters that follow are divided chronologically. But the point is stressed throughout that not every region in a country followed the same trajectory. Not only were the developments discussed here not linear, but what might be termed traditional community systems of norm enforcement continued in some regions while largely disappearing in other regions of what was, politically, the same state.

The changes discussed here also inter-reacted with and took place in the context of other significant developments, most notably the rise of the nation state and the emergence of a significant and increasingly literate public. Nineteenth-century Europe was divided into nation states and empires whose rulers were jealous of their authority and who largely achieved the aspirations of their Enlightenment predecessors to extinguish the alternative legal and

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[19] Peter King, *Remaking Justice from the Margins: The Courts, the Law and Patterns of Lawbreaking, 1750–1840*, Cambridge: Cambridge University Press, 2006.

political structures of church and nobility. As will be discussed below, they also established policing systems that secured their centres, generally their capital cities, and proclaimed their presence in the more remote peripheries. Those bodies that were well integrated into, and subservient to the state were permitted to maintain certain of their penal and policing institutions. The larger municipalities are the best example here, though there were exceptions as, most notably perhaps, is demonstrated by the case of Italy.

When the French old regime authorized communities to draft *cahiers des doléances* on the eve of the Revolution it genuflected, reluctantly, to the emergence of public opinion. During the seventeenth and eighteenth centuries chapbooks and scaffold broadsides entertained the literate public, as well as those who could hear the stories recounted, with the adventures and crimes of highwaymen and murderers; the literature also warned against following the offenders' lifestyles. Gradually this kind of literature was replaced by novels, often written as gripping part-works, and by a popular, sensationalist daily press that provided true histories of real murders and robberies often luridly illustrated. Alongside the popular literature there was a steady growth in publications produced by experts in crime and criminality—penal reformers, police officers, and, by the close of the nineteenth century, members of the embryonic academic community of criminologists. Particularly interesting in this change of media form over time was the way that, consistently, the same group was stigmatized under different labels. The vagrants and beggars of the eighteenth century became the dangerous and criminal classes of the early nineteenth century. Their faults were their refusal to do an honest day's work, their love of luxury and drink, their feckless parents, and their own feckless parenting. By the end of the century the same group, with largely the same faults, were being assessed by an increasingly medical and psychiatric discourse that portrayed them as victims of their heredity. The similarity in ideas across frontiers of the European world meant that, while nation states and empires jealously guarded their independence and separateness, their penal experts often maintained the cosmopolitanism of the Enlightenment and were prepared to read each others' work, to exchange ideas, and to believe that they were developing rational, scientific, and humane structures. Yet, as the following chapters show and as the inter-war period demonstrates most acutely, even when the discourse remained similar, political ideology and contingency could generate very different practices and outcomes.

The ways in which different national contexts adopted, exploited, and reshaped ideas common across Europe is a recurrent issue in this book.

But to reiterate a point made in the preface, the book does not cover every country in Europe in equal measure. It seeks to describe the major changes in understanding crime and criminals, and the major institutional developments that were established to deal with crime and criminals. In the process, a series of key themes recur. First, and perhaps most obvious, is the increase of state intrusion and the erosion, though not necessarily the eradication, of local control and authority in matters of criminal justice. The book also highlights the tensions between ideas, usually for some kind of reform, and pragmatism—a tension that is not unique to the field of criminal justice. Third, while it has to be recognized that crime could be a terrifying and traumatic experience for victims and, at times, for their family and friends, the concept of the criminal was commonly one by which articulate commentators—many of whom had no direct experience of either crime or its perpetrators—sought to categorize and to stigmatize social groups whose lifestyle and experience they frowned upon and failed to comprehend.