
The Civilization of Crime

Violence in Town and Country
since the Middle Ages

Edited by

Eric A. Johnson and Eric H. Monkkonen

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Introduction

Eric A. Johnson and Eric H. Monkkonen

Are the violence-laden cities of much of present-day North America and parts of Britain and continental Europe condemned to an increasingly violent future by certain laws of historical development? Are cities inevitably more violent and crime-ridden than small towns and villages? What social, economic, and attitudinal factors account for the evolution of criminal behavior over time and across national boundaries? Was village and town life more peaceful in the distant past? These are some of the significant questions that the authors in this volume seek to address. Coming from seven different countries, the authors are all recognized criminal justice historians. Here they have combined their efforts to challenge much of what both scholars and laypeople in Western society have come to believe about the nature and causes of violence and crime in the past. Their work could help us make more informed policy choices about our future.

The focus of this book—violent crime in the city and the countryside—features one of the elemental distinctions made in the context and definition of crime and crime control. Over time there have been both large and subtle shifts in this elemental dichotomy. The classic city had walls to keep armies and criminals out. Gangs were in the countryside. Today, at least in the suburbs and rural parts of the United States, many people would like to wall cities to keep criminals and criminal gangs *in*. In the past, city safety came often as a result of increased state authority and power as well as a change in mentality on the part of the population. Today the nature of the city as well as the countryside has changed, becoming more complex and varied. We have much to learn from our rural and urban past, not least of all concerning questions of order, authority, and mentality.

Some of the essays in this collection may seem to be inattentive to customary social theory. Where are the classical social thinkers who address the centuries-long transformations of the West? Durkheim, Weber, and Marx are underplayed, as is even Michel Foucault. Instead, a shadowy figure, Norbert Elias, appears, his presence announced by the English historian James Sharpe's reference to the "civilizing process," in the first chapter. Starting from differing (if traditional) theoretical perspectives, a large number of historians of crime have become more interested in Elias because his work better describes what they have found than has that of other social thinkers. Even if all of the contributors to this volume do not explicitly see their work as grounded in the theories of Elias, almost all of them, although they study different societies and come to their work from a variety of intellectual perspectives and national backgrounds, have discovered that their empirical findings do not fit with customary social theorizing.

Three decades ago, it could have been said that historians of crime were far more optimistic about studying everything around crime than about studying crime itself. The latter pursuit was considered elusive primarily because empirical estimates concerning crime's volume and severity seemed to be unattainable, at least for crime in earlier times. Therefore, historians set about researching everything surrounding crime—legal institutions from the penal system to modes of enforcement, popular and elite attitudes, court systems and crimes coming to courts. Few historians asked what might to an outside observer seem to be initial or fundamental questions: How do crime rates and trends in the past compare with those in the present? What were crime rates and trends in the past?

In addition to exercising caution in directly confronting questions about the long run of crime, historians were similarly reticent to make international comparisons. The reasons: crimes are legally defined actions, and legal systems vary enormously among nations. In addition, national mechanisms for dealing with crime, national attitudes—indeed, all of the aspects of crime that historians felt they could study—seemed incomparable in any clear sense. So responsible scholars usually balked at international comparisons as well as at describing long-run change.

Presumably, these two areas—international comparisons and long-run change—would be the primary points of interest most people would have when it comes to old crimes, so it is no wonder that the history of crime and justice never became a scholarly growth industry. Yet, those researchers who began working seriously on crime and crime-related topics continued to pick away at the subject; their small number grew ever so slightly, but steadily.

A major organizational and intellectual turning point came when a small group of scholars in the Netherlands began meeting in 1973. Known as the "Dutch group," this loose organization contacted even smaller groups of historians in other nations (such as a group in the United States organized through the Social Science History Association [SSHA]) and arranged for several sessions on the program of the International Economic History Conference in Edinburgh, Scotland, in August 1978. Out of this critical conference the Dutch group was reborn as the International Association for the History of Crime and Criminal Justice (IAHCCJ), with a newsletter published biannually as a supplement to *MSH Informations* of the Maison des Sciences de l'Homme, Paris. The first issue appeared in February 1979. In 1991, with issue 14, its name changed formally to the *IAHCCJ Bulletin* with a special issue honoring the scholarly contributions of Yves Castan. Meanwhile, in North America, the Canadian/American serial *Criminal Justice History* began publication in 1980.

Just five months after the Edinburgh meeting, the IAHCCJ initiated a series of annual meetings, usually in Paris, with international meetings occurring every three or four years. Its members often attend the SSHA meetings in the United States, and through its newsletter an international network of scholars shares ideas, bibliography, and calls for conference papers. At the same time, the bibliography of monographs and research articles expanded to the point that a mastery of all the literature is no longer possible.

The present volume offers some of the fruit of the growing international collaboration among criminal justice history organizations based in Europe and America. Its genesis came at the third major international conference of the IAHCCJ, a meeting attended by some thirty leading criminal justice historians who came to an island in the Stockholm archipelago in early July 1990 to discuss the theme of "crime in town and country." Subsequently, panel sessions on the theme of crime and modernization over the whole of European history were organized for the 1991 and 1993 annual meetings of the SSHA, held in New Orleans and Baltimore, respectively. Many of the participants at the original Stockholm conference took part in those American meetings and refined their arguments through further contact with American scholars and each other. The present volume, therefore, took root on both the European and North American continents and represents close teamwork among European and American scholars concerned with the history of crime over the long term.

As this volume demonstrates, the slow, low-key growth in organizational connections and knowledge has finally brought about a surprising schol-

arly consensus. It is now assumed that crime—in particular personal violence—in the Western world has declined since the early Middle Ages until very recently. This simple statement encompasses the two aspects of crime that scholars expected never to approach: international comparison and lengthy trends. This generalization is itself still open to more precise specification, to a large amount of detailing, and to demanding empirical refinement.

At least one problem exists: in detailing long-term trends, the more crime historians are able to fix the numerator (the count of crimes), the more they must define and find the denominator (the population against which the crimes are indexed to produce a rate). It becomes an enormous challenge to achieve accuracy in the denominator, especially since it should be adjusted for age and gender and then made precise to the geopolitical unit for which the crime data are available. Historians will not be able to use the vague estimates that have previously satisfied them. Nor can they easily rely upon the work of demographers, who typically have reconstructed the birth and mortality patterns of samples, rather than the size and shape of a particular region's population.

The authors of the following chapters explore the details of this unexpected generalization about the long-term decrease of violence in Western society, but a few points about the theoretical impact of this generalization must be stressed. One of the most notable effects of the recent work on the history of crime as demonstrated in this volume has been to force historians to reassess (or assess for the first time) the work of the sociologist Norbert Elias. Without a doubt, his work has gained the greatest respect of any single theoretician. Elias's significance has come to be recognized in part because his descriptions of the "civilizing process" match so well what crime historians have been finding. That he wrote his major works touching on violence in the late 1930s with little social historical research to confirm his ideas makes his theoretical formulations all the more impressive.

Elias ties the control of individual impulse to the growth of powerful states and courts in Europe; he claims that the state's monopoly on violence (a notion from Weber, of course) "makes the use of violence more or less calculable, and forces unarmed men in the pacified social spaces to restrain their own violence through foresight or reflection."¹ He argues that this imposition of self-control began with the "transformation of the nobility from a class of knights into a class of courtiers,"² and that impulsive violent behavior slowly came under control in the princely courts of the sixteenth and seventeenth centuries. Elias's work has many substantive implications that historians would have found unacceptable thirty years ago: first, that control

of violent behavior emanated from courts; second, that urban centers would have more "civilized" behavior; third, that areas where state systems had not yet penetrated would be more impulsively violent; and, fourth, that, over time, violence would decline.

It is these and many other implications of Elias's work that may have impeded its acceptance in the immediate postwar years, for what he said ran contrary to a different and more persuasive theoretical sequence. This argument, originally associated with classical sociological theorists such as Tönnies and Durkheim, and later elaborated on by Park and Burgess of the Chicago school of sociology, held that, with the breakdown of family and community (*Gemeinschaft*) and the rise of mass society (*Gesellschaft*), especially through urbanization, industrialization, and the class alignment of capitalist societies, crime has increased. Since crime did increase somewhat (in America at least) following World War II, and dramatically subsequent to 1968, this other line of sociological theory made much sense. Elias's discussions of the control of violent impulses in "civilized" societies seemed out of touch. So, for historians of crime, the slowly growing conviction that crime has decreased, not increased, over the centuries; that the countryside used to be dangerous, not safe; that, as Barbara Hanawalt put it, "fur-collar crime" was a major threat—all of this changed the status of Elias from curiosity to prescient thinker.

Elias's work also ran contrary to something else painfully evident in our century—violence by the state. Elias himself was the victim of such violence, spending much of his life in exile. Several observations are in order here. This book is not about violence by the state, but that means neither that such violence is insignificant nor that the authors of the individual chapters are unconcerned about such violence. The authors use the work of Elias to help understand social behavior in the context of the nation state. They do not use his theories to explain state behavior. An underlying critique might be to ask how we can see the expansion of the modern state as spreading more orderly and civilized behavior while it at the same time has spawned mass executions, "ethnic cleansing," and genocide. The point is, of course, that this book is not about all violence, but about a particular kind of violence, violence on the individual level. Most historians have been by tradition and training best equipped to analyze activities by states—political takeovers, revolutions, wars, and violence against citizens. Recording the history of everyday life, of private life, of families, is a relatively recent pursuit, and the study of the history of crime is very recent.

Some will speculate that the apparent increase in civility, the decrease

in the acceptability of violence between persons, came about as the state increased its legitimate monopoly on violence, but that in turn, the state itself became increasingly violent. In this scenario there would be fewer crimes between individuals but more large-scale assaults by states. In the Middle Ages there should have been less state-sponsored genocide and warfare, and fewer executions; the rise of the nation state should have been accompanied by greater interpersonal safety and more fearsome state violence. This argument implies some sort of balance sheet of horror, one that we are not yet capable of providing. The careful analyses of crime in this volume do not try to measure exactly the amount and nature of crime across wide jurisdictions; the questions have more to do with what crimes show about the state and society. The idea that crime decreased from the Middle Ages until recently is interesting and important, but its exact measures are not yet the object of major research efforts.

Other impacts of the research represented here are now being evaluated. That the results demonstrate the benefits of comparative work has led to a new, multi-institutional, collaborative project on courts and violence in the Nordic countries, involving many scholars, including some of the contributors to this volume. Throughout Europe, younger scholars in law, history, and sociology faculties have begun a host of new projects following on and amplifying the work so far accomplished.

One concern common to people in most Western societies is the recent rise in crime rates. Is it possible that the long historic decline in crime has ended? Do we have any understanding of the foundations that prevent criminal violence? What is the deeper relationship between individual and state violence? These worrisome and urgent problems propel us to probe more deeply crime in the past.

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The essays in this book treat the nature and genesis of violent criminality in European communities and societies—from Paris during the Hundred Years' War in the fourteenth century and Arboga, Sweden, in the mid-fifteenth century to Amsterdam and Norrköping, Sweden, in the 1980s. They provide remarkably consistent evidence from several different national contexts that the distant past was far more violent than the more recent past and indeed even the present; and that the great decline in the level of interpersonal violence took place sometime between the seventeenth and eighteenth centuries—a period marked by the rise of state control over the population, but a time considerably before the great wave of urban-industrial growth and ex-

pansion during the nineteenth and twentieth centuries (see, especially, the essays by Sharpe, Österberg, and Spierenburg). The essays also demonstrate rather conclusively that the popular *de la violence au vol* (from violence to theft) “modernization” thesis does not hold up to empirical verification (see Sharpe, Österberg, Diederiks, Weinberger, Johnson). Hence the perceived decline in violence over the long term was in fact real and not merely a spurious correlate of a growing interest in prosecuting property crimes in bourgeois society. Whereas violence certainly did decrease over the centuries, there is no solid evidence that property crimes actually increased.

The essays also challenge many other historical-sociological theories and common folkwisdom and provide rich and nuanced detail about the crime problem in town and countryside in nearly all corners of Europe since the late Middle Ages. Among other things, they demonstrate that contemporary organized crime is hardly new. Criminal gangs and networks were pervasive in both urban and rural settings in centuries' long past (as set forth by Egmond). The essays show that the church had much to do with the change in popular mentality from an acceptance of violent acts in medieval and premodern society (as in fifteenth- and sixteenth-century Naples, described in Mancino's essay) to a condemnation of such activity during the seventeenth and eighteenth centuries (as in Sundin's examination of several Swedish communities). They provide strong proof that critics both in the past and in the present have no justification for blaming cities and city populations for violence, as more often rural areas were associated with violence than urban ones in most societies' pasts (Diederiks, Johnson); and that, once again, the predominantly rural societies of the distant past were far more violent than the predominantly urban societies of both the recent past and the present (Cohen, Sharpe, Österberg, Spierenburg). But, finally, as Spierenburg so intelligently points out, even if it is folly to romanticize the far from tranquil village life of the past, it is also wrongheaded to think that our distant ancestors were much less happy in their tumultuous and violent lives than most of our parents and grandparents were or we are in our far safer and apparently more “civilized” communities. Love and happiness might well have coexisted harmoniously with even fatal outbursts of passion.

The chapters in this book are grouped in two sections, the first treating long-term trends from the medieval era to the present and the second exploring various aspects of crime and justice in town and country in briefer time periods but often in more detail. The first three essays, by the English scholar James A. Sharpe, the Swedish scholar Eva Österberg, and the Dutch scholar Pieter Spierenburg, assess all of the empirical evidence in their respective

countries pertaining to long-term trends in homicide and, to a lesser extent, to other forms of criminality.

Previous to these essays only the English case had received much attention. J. A. Sharpe is one of the leaders in the English debate between several leading scholars like himself and Lawrence Stone and more recently J. S. Cockburn, an exchange played out in recent years in several books and articles—most prominently perhaps in the pages of the English journal *Past and Present*. Sharpe takes a fresh look at the English evidence in his chapter here, “Crime in England: Long-Term Trends and the Problem of Modernization.” In it he argues that “the overall pattern seems clear”—namely that there can be no doubt that there was a long-term decline in English homicide rates from the fourteenth to twentieth centuries. Sharp warns, however, that “the pattern with property offenses is less unequivocal,” but that “the great decline in homicide in the seventeenth century was not accompanied by a rise in property offense prosecutions, but rather by their diminution.” Finally Sharp argues that Elias’s arguments work much better for explaining English crime trends than “modernization arguments” based on the urbanization and industrialization of the last two centuries, as “discussing the ‘modernization’ of English crime is complicated by the fact that much of it looks very modern from a fairly early date.”

The findings presented here by Eva Österberg in her essay, “Criminality, Social Control, and the Early Modern State: Evidence and Interpretations in Scandinavian Historiography,” and by Pieter Spierenburg in his essay, “Long-Term Trends in Homicide: Theoretical Reflections and Dutch Evidence, Fifteenth to Twentieth Centuries,” coincide with Sharpe’s evidence. The evidence on homicide trends reported by the two scholars is compared in table I-1 (though here the homicide rate is reckoned per million inhabitants, instead of per thousand in Österberg’s tables or per hundred thousand in Spierenburg’s, and recalculated from their figures so as to apply to whole centuries instead of to decades, which figure in their more precise discussions).

Clearly these figures, rough as they are, demonstrate that the English case is no anomaly. The homicide rate in fifteenth- and sixteenth-century Amsterdam and Stockholm was quite similar to the rate for England and very high (about on a par with the most murderous American cities of the 1980s and early 1990s, which are, according to a 1993 article in the *New England Journal of Medicine*, by far the most violent places in the industrialized world). The big drop in the rates, although they had started to decline more gradually in both countries earlier, came in the second half of the eighteenth century. After that time both countries’ rates appeared to hold steady through-

Table I-1. Estimated Yearly Homicide Rate per Million Inhabitants in Sweden and Holland, Fifteenth to Twentieth Centuries

Century	Amsterdam ^a	The Netherlands	Stockholm	Sweden
15th	500	—	425	330
16th	200	—	280	300
17th	75	—	340	300
18th				
first half	80	—	—	165
second half	20	—	7	
19th	14	5	30	15
20th				
first half	—	5	6	—
post-WWII	60 ^b	25 ^b	8 ^b	—

a. Amsterdam figures are for homicide victims, not including infanticide.

b. Dutch figures for post-WWII are for 1985–90 for the Netherlands, 1987–90 for Amsterdam. Stockholm’s figures are for 1966–70.

out the nineteenth century and the first half of the twentieth before increasing somewhat in the last thirty years.

In her essay Eva Österberg adds an assessment of minor crimes of violence and of thefts to her careful study of homicide trends in Sweden and some neighboring Scandinavian lands since the fifteenth century. Though her evidence seems to indicate some rise in property offenses in the post-World War II period, she sides with Sharpe in rejecting the modernization argument about a shift from violence to theft in bourgeois society. She writes, “The notion of a shift ‘from a violent society to a thieving society’ is too simple a model for the description of changes in criminality in Scandinavia.” Rather, her nuanced examination of crime trends and the rise of the power of the state in Scandinavian history leads her, if admittedly with some reservation, to support Elias’s concept of a “civilizing process” in explaining the long-term change in mortal violence.

Spierenburg adds to Sharpe’s and Österberg’s criticisms of the “violence-to-theft” thesis and agrees with them in siding with Elias’s “civilization argument” in explaining long-term trends in homicide in Amsterdam and the Netherlands since the fifteenth century. Besides his lengthy theoretical discussion, and his judicious assessment of previous Dutch studies of homicide

trends, Spierenburg provides a cautious treatment of his own compilation of the Amsterdam figures from the seventeenth to nineteenth centuries. By examining coroners' inquests for the period between 1667 and 1816, Spierenburg is also able to make important statements about the role of women in homicide offenses, the motivation of murderers, and the relationship between killers and their victims. Here he adds support for Elias's theory by demonstrating that cases of premeditated homicide increased over time with fewer people being killed by strangers. Finally, he concludes that his evidence "casts serious doubts on the thesis that Dutch society traditionally has been non-violent in comparison with other European lands"; nonetheless, he also concludes that the recent rise in Amsterdam's homicide rate is out of step with the rest of the country and probably occasioned by its status as a major center of the drug trade.

In her study "The Hundred Years' War and Crime in Paris, 1332-1488," the Israeli historian Esther Cohen leads the way for the more specialized essays in part 2 of the volume, arranged chronologically, by carefully exploring the nature of violence in late medieval Paris. Though "the sporadic nature of the sources" makes it difficult for her to calculate verifiable crime rates, her evidence points to a lusty and violent society with the majority of the cases in the available records concerning "brawls, street fights, and casual violence." Also she finds a surprisingly high level of continuity during and after the Hundred Years' War as "thirty years after the end of the war, the picture of urban crime remained unaltered. . . . The most typical cause for arrest in 1488 was the same in 1332." Richly descriptive, her essay provides flesh and blood to the picture of violent crime in late medieval society and demonstrates that the high level of violent crime in late medieval France corresponded closely with that of England, Sweden, and Holland. As she explains: "Violence was not even deplorable. It was a part of life, one of the ways one dealt with other people."

The Italian historian Michele Mancino provides yet more flesh and blood in his in-depth treatment of several cases of rape, murder, and other forms of violence in sixteenth- and seventeenth-century Naples, in an essay entitled "Ecclesiastical Justice and Counter-Reformation: Notes on the Diocesan Criminal Court of Naples." His chapter is particularly important for detailing the often crucial role of the church in its conflict with the state for the control of the hearts and minds of the people. The church, he finds, was generally tolerant of crimes of the flesh if intolerant in cases of crimes concerning the spirit. This, he shows, was in sharp contradistinction to the position of the state authorities. Hence the rise of the state's authority in pre-

modern Europe would seem to mandate a shift in attitudes toward, and the practice of, violence in premodern society, as Elias and the other authors argue.

The Dutch historian Florike Egmond's essay, "Between Town and Countryside: Organized Crime in the Dutch Republic," demonstrates that the Dutch case does not fit stereotypes about banditry, usually associated with the countryside, and the organized underworld, usually associated with cities. As she argues, "organized crime in preindustrial Europe turns out to have been much more varied than suggested by the dual model of picaresque rural bands and urban underworlds." Comparing gangs and organized crime networks in the highly urbanized Dutch province of Holland with criminals in the more rural province of Brabant, Egmond shows that by at least the seventeenth century in Holland there was already a well-organized crime network, far more advanced than mere congeries of bandits, which operated with "interurban connections" and an "organizational pattern of overlapping networks, and a tendency toward specialization." Additionally her evidence suggests that criminal bands were also highly organized in the more rural province of Brabant but that they were much more violence prone in their method of operations than their urban counterparts, thus again lending credence to the view that violence was more commonly associated with the countryside than the city in premodern society.

The final member of the "Dutch group" in this volume was also in many ways the leader of that group. Herman Diederiks was the president of the IAHCJ from its inception until his death in August 1995. In his essay entitled "Urban and Rural Criminal Justice and Criminality in the Netherlands since the Late Middle Ages," Diederiks reports on the findings of a huge research project, known as "SR18," conducted at the University of Leiden on Dutch criminal cases in several localities, most dating from the eighteenth and nineteenth centuries. His quantitatively based essay complements Spierenburg's and Egmond's chapters as he focuses on several other types of crime and criminal justice issues that affected the urban/rural dichotomy in criminal behavior. These include the relatively frequent presence of criminal courts and justices in rural and urban areas and the differences in penalties doled out in town and countryside. Of his many important findings, his evidence about the overarching role of males in violent acts, more so in rural than in urban areas in the eighteenth century, is of great interest to criminal justice historians as so little systematic evidence about the role of gender in premodern society exists for any country. Finally his evidence pointing out that "the rural countryside showed more male and violent criminality" than the cities

of eighteenth- and early nineteenth-century Holland adds further proof to the central argument of nearly all of the authors: violence has not been a particularly urban phenomenon throughout most of the last several centuries.

In another largely quantitative study of local regions in nearly the same period, entitled "For God, State and People: Crime and Local Justice in Pre-industrial Sweden," the Swedish historian Jan Sundin also finds that women's criminality was greater in the towns than in the countryside. Focusing his study of the seventeenth through mid-nineteenth centuries, Sundin examines the "judicial revolution" that coincided with the rise of the state's dominance over local affairs and the impact these had on crime and justice in two Swedish provincial capitals and their surrounding countryside. Perhaps more than any of the other essays, Sundin's work helps to explain in detail why homicide rates dropped so precipitously in the period in Sweden and presumably in several of the other societies as well. As he discusses in detail, the decrease in violence was associated with a change in how one's honor was preserved, from fistfights in the seventeenth century to court litigation in the nineteenth century. Also he attributes the decline to a decrease in weaponry among the citizenry, to an increase in church discipline, and to the fact that "society at large became more peaceful, which was undoubtedly the case after the warlike seventeenth century."

Barbara Weinberger, an historian of modern England, in her essay "Urban and Rural Crime Rates and Their Genesis in Late Nineteenth- and Early Twentieth-Century Britain" focuses on the role of the police in the industrial heartland city of Birmingham and its surrounding region. Examining the police's role in generating the crime statistics in several types of offenses from poaching and drunkenness to common assault and simple larceny, she argues that "the higher and much more volatile offense rate in the city is evidence of a higher degree of police activity" and that "there was really no substantive difference" between Britain's rural and urban areas.

Although Eric A. Johnson, in his study of "Urban and Rural Crime in Germany, 1871-1914," employs far more quantitative data and displays far less caution in interpreting the crime statistics than does Weinberger, his findings and overall conclusions are quite similar. Furthermore, Johnson points out that the alleged connection between urban communities and serious crime has essentially been an ideological position that conservatives have frequently argued so as to condemn their political enemies—urban workers, socialists, and ethnic minorities. His evidence, based on coroners' records for murder and manslaughter and on court records for assault and battery and theft in over one thousand localities over a span of more than thirty years, shows

conclusively that violent crime was not a common characteristic of German cities during the period of that country's great urban and industrial expansion. Violent crime was much more often associated with poor and discriminated-against Polish and Lithuanian minorities who usually lived along Germany's eastern borders. Thus the perceived crime rates were largely manufactured, by a conservative and discriminatory political order and criminal justice system.

Taken in sum, the chapters in this book point to the following conclusions: (1) violent crime has decreased over the last five centuries; (2) violence was a common and often tolerated, if not fully accepted, form of dispute settlement in the rural areas and villages that dominated premodern society; (3) a major drop in violent crime in most countries took place in the seventeenth and eighteenth centuries; (4) this drop was associated with a "civilizing process" whereby dispute settlement was gradually worked out in court more often than in potentially deadly brawls in taverns and on streetcorners—the growth of the state's power and monopoly over violence helped to retard interpersonal violence; (5) throughout the centuries as today, women have been far less prone to violence than men, but urban women have been more often involved in violence than have rural women, suggesting that their behavior has been quite different from that of men, whose violent acts were a more common feature of the countryside than of the town; (6) cities have not usually had exceptionally high crime rates in most societies in the past.

Finally, even though the historians in this volume have demolished any notion that there was a peaceful golden age in premodern times, they have created the image of a much more civil period during the nineteenth and early twentieth centuries, an era distinguished by expanded state control over violent behavior. As the twentieth century draws to its seemingly chaotic close, with crime rates soaring, are we not discovering only belatedly that during those years Western nations were in some sort of golden age? And is it possible that whatever the causes of the long decline in crime, they no longer obtain?

Notes

1. Norbert Elias, *The Civilising Process*, 2 vols. (Oxford, 1982), 239.
2. *Ibid.*, 236.

PART ONE

**Long-Term Assessments:
The Middle Ages to the Present**

Crime in England: Long-Term Trends and the Problem of Modernization

James A. Sharpe

Toward the end of the reign of Queen Elizabeth I a petition reached Lord Scrope, one of Her Majesty's leading officials in the north. The petition aimed to bring to Scrope's notice the misdoings of "the Graymes and their clanne." These, the petitioners claimed, were they to be described fully, "wold contayne a volume." As it was, the brief catalog in the petition was impressive enough. The Grames had attacked a lesser royal official, John Musgrave, the land sargeant, firing "above thirtie dagges and gunnes" at him. Musgrave escaped only when local people rescued him. The Grames had sprung one of their number, John Game, alias Jock of the Peartree, from prison during the assizes, or superior court sessions, at Carlisle. They had kidnapped an eight-year-old boy and held him hostage to use in exchange for Watt Game, "a notable thief in prison." They ran a protection racket in their area, burning the houses and assaulting the persons of those who did not cooperate, while Richard Browne, who had killed one of their number while defending his goods, not only had his house burnt but also had to "buy his peace." They had assaulted the son of a justice who had helped convict one of their number, had impeded the hue and cry, prevented the sheriff from serving writs, and carried out numerous robberies, sometimes with the aid of Scots. They were also easing "men of good service" out of tenancies and replacing them with Scots and other "badd people," doubtlessly with the intention of consolidating their local power base. The petitioners claimed that more than three of the Grames had been outlawed for murder, burglary, and other of-

fenses. The Grames' counterpetition, professing their loyalty to their monarch and their attachment to law-abiding ways, is belied by constant references to their misdeeds in the relevant documentation.¹

However much of a menace to their neighbors and a nuisance to royal officials the Grames may have been, they perform a useful service to the modern historian by providing an ideal-type example of late medieval crime. Such crime, by 1600, was more likely to exist on the Anglo-Scottish border than anywhere else in England, but perhaps it had been prevalent in other areas in the fifteenth century. It was a criminality where a "clanne" of blood relatives and their associates could create an area where the royal writ ran, at best, very insecurely. It was a criminality that depended on organized intimidation and protection racketeering. And it was, above all, a criminality that depended on violence, the violence of hard men who, from their late childhood, had been accustomed to fighting as a normal part of life. It was a criminality, then, that reflected a low level of penetration by the state, a low level of respect for its laws, and a set of social mores that depended heavily on loyalty to kin and that set great store by violence as a means of dispute settlement.

Thus we see one possible model of premodern crime. This coexists uneasily with another view that uses our own current social preoccupations to create a cozy mirror image of the modern situation. This view of premodern crime, like so much conventional wisdom about the preindustrial world (one thinks of the extended family and the stable village community) has proved pervasive. Howard Zehr, referring to "some of Western man's most basic assumptions about both crime and modernity," gently lampooned the resulting conventional wisdom:

Everyone knows that crime is more frequent today than it was in the stable rural milieu of our parents and great grandparents. In fact, many would agree, such a trend is inevitable. Modernity implies a decline in respect for conventions, a reduction in social controls, a lessening of appreciation for the rights and property of others. What could be more logical than that delinquency should accompany the modernisation process? Moreover, the growth of cities is usually considered a major catalyst in this development. . . . The city, in the popular view, is characterised by instability, impersonal relationships, social disintegration and weakened social controls: it is the paradigm of modern society.²

Here Zehr neatly sets out the conventional wisdom about the transition from "premodern" to "modern" society, and the main elements of how this process affected crime and delinquency.

Insofar as historians have turned their attention to the process, they have generally agreed that crime "modernized" over the period of the industrial revolution in the nineteenth century, and that this process involved changes in both the content of crime and the levels of organization behind it. Thus Michael Weisser, in an early and not altogether successful attempt to plot large-scale changes in criminality, postulated the emergence of a "new crime," a phenomenon that began in the sixteenth century as a consequence of a number of very familiar processes (demographic growth, increased geographical mobility, more marked social stratification, urbanization, and a greater gap between rich and poor) but which did not reach fruition until the nineteenth. By the eighteenth century this "new crime" was becoming evident in the more economically advanced sectors of Europe: "this period witnessed the emergence of new forms of criminality that reflected the ongoing transition to industrial life. These newer types of crime occurred most frequently in areas and among populations that were directly confronted with the effects of modernisation—places where industry and commerce developed in the earliest and most obvious sense."³ Most scholars who have addressed the problem will have agreed that the salient feature of this new crime was the prevalence of property offenses, as opposed to crimes of violence: Howard Zehr summed it up by referring to "a modern pattern of crime, where violence is relatively low compared to property crime, and a 'premodern' pattern of high levels of violence relative to property crimes."⁴

We now know far more about the history of crime than Zehr did when he subjected the conventional wisdom about crime and modernization to scrutiny in 1976, and certainly more than we did when this conventional wisdom was formulated, around the beginning of the twentieth century. In this chapter I will review this conventional wisdom in the light of the English experience of the history of crime. There are two grounds that make this exercise an attractive one. First, in traditional historiography England has been portrayed as the pioneering industrial society. Although it is currently fashionable to be skeptical about the extent and impact of the Industrial Revolution,⁵ even those scholars who have challenged the significance traditionally attributed to it cannot ignore the concrete impact of industrialization and urbanization: London, the biggest city in Europe, was expanding constantly throughout the nineteenth century. With this expansion came that of other, and new, great urban centers: Manchester—the "shock city" of the Industrial Revolution—Leeds, Liverpool, and Birmingham; lesser centers, such as Halifax, Huddersfield, and Preston; and, if we extend our view to the other parts of the United Kingdom, such significant industrial centers as Belfast, Cardiff, and the Glasgow-Clydeside belt. If we are

to find crime modernizing anywhere, it ought to be there. And second, on a more prosaic note, my pursuit becomes attractive because the history of crime in England has received considerable, if far from exhaustive, attention.⁶ There are gaps in our knowledge, both chronological and thematic. Most of that knowledge, certainly before national criminal statistics were produced in the nineteenth century, comes from the analysis of local, normally county, samples of material. But despite the many drawbacks, it is now possible to reconstruct much of the history of crime in England from the fourteenth to the twentieth centuries.

Before entering into the substance of this essay, I should make one further preliminary comment. I have always been a little unhappy with the concept of "modernization," and it was never as widely adopted in Britain as it seems to have been in the United States a decade or two ago: indeed, the English Marxist historian Edward Thompson once referred to modernization theory as "a pseudo-knowledge that has prestige on a few American campuses."⁷ It seems to me that if we accept "modernization" as a useful shorthand term, it is another way of stating the main lines of development formulated by classical sociology: Marx's concept of a transition from feudalism to capitalism, Weber's notion of the transition from a "traditional" to a "rational" society, or that other old friend, the shift from *Gemeinschaft* to *Gesellschaft* traced by Tönnies. All of these thinkers (and, one suspects, a number of others who were influential in the decades around 1900 but who are now more or less forgotten) were concerned with exploring the problematic of the great transition from a stable, rural, preindustrial society to an unstable, urban, and industrial one. The modernization of crime in England is, therefore, a subject of relevance to any one of a number of strands of social science thinking.

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The idea of crime "modernizing" involves a number of elements. Initially, I should like to single out one of them, the idea that between the late Middle Ages and the nineteenth century, England experienced a shift from a "feudal" criminality based on violence, so vividly illustrated, as we have seen, by the conduct of the Grames up in Westmorland about 1600, to a "modern" criminality based on property offenses. That we are willing to posit such a shift, of course, depends heavily on our knowledge that English society became more capitalist, commercial, industrial, and urban over the period in question. Various other components can be fed into the model. One is the idea that as class structures altered, late medieval criminality involving a bas-

tard feudal baron's retainers gave way to a criminality involving an urban "criminal class." There is an additional complication, the idea that burgeoning commercialization left more scope to what we would call "white-collar" crime: certainly the law relating to fraud in England as it developed over the eighteenth and nineteenth centuries would repay close study. More immediately, however, our discussion might most usefully turn to such statistical evidence as has been constructed about the incidence of crime.

This creates problems. Even today, when police forces and government departments are anxious to collect criminal statistics, the implications of those statistics remain debatable and their meaning contentious. Although archives may survive from which statistics can be drawn, the precise weight that can be afforded to the quantification of materials from three or six centuries ago remains problematic.⁸ Nevertheless, a number of historians have turned their energies to constructing and interpreting such statistics, and we have evidence, at least in isolated samples, over a fairly long span. There is a good study for the first half of the fourteenth century,⁹ then something of a gap until the sixteenth. From about 1550 records survive that have permitted a number of historians to quantify the prosecution of serious crime over the later sixteenth and seventeenth centuries,¹⁰ and this process has been continued over the eighteenth.¹¹ Since the nineteenth century the creation of annual criminal statistics has facilitated the discussion of long-term trends in criminal statistics on a national basis,¹² while a number of local studies of crime, with a core of statistical evidence, have also been produced.¹³

On the face of things, then, we would seem to have a reasonable basis for entering a discussion of long-term changes in crime in England. There is, however, a major complication. Much of the study of the history of crime in England has concentrated, understandably, on serious offenses, usually that class of crimes known as felonies, which by about 1600 were normally tried at the assizes. But then as now the overwhelming bulk of crime, statistically speaking, was petty crime. This leads us into another quagmire, the problem of how to define crime. If we are to take a broad view (as I argue we should) and include the petty offenses coming before the quarter sessions, and that small change of delinquent behavior coming before the local ecclesiastical or manorial courts, still active in many areas over the seventeenth century, we get a more complex idea of what "crime" was and also a rather different notion of its statistical dimensions. Thus surviving assize and quarter-sessions records reveal that between 1600 and 1640 twenty-four indictments were brought for larcenies, burglaries, and cases of breaking and entering in the Essex village of Kelvedon Easterford. Over the same period 756

presentments against inhabitants of the parish were made in the court of the Archdeacon of Colchester, the two largest categories of offense being sexual immorality (234 presentments) and failure to attend church services (224 presentments). So there was a constant undercurrent of petty offenses, their prosecution often dependent on local initiatives, complementing the serious offenses that have attracted so much attention from historians.¹⁴ In the fifteenth century such offenses might go to the manorial court, in the early seventeenth to the ecclesiastical court, by 1700 to the justices meeting in petty sessions. The records of such prosecutions are, despite the essentially piecemeal nature of their survival, massive, and as yet have been little studied. Before they are, it is probably premature to speak too confidently of macro-changes in English crime.

Let us set such reservations aside, however, and turn to surviving evidence for serious crime, concentrating on two types of offense, homicide and property offenses (larceny, burglary, breaking and entering, pickpocketing, robbery).¹⁵ Beginning with homicide, we are able to tell a story that provides comfort for the advocates of modernization.¹⁶ We have a number of samples of homicide statistics from the Middle Ages. These show massive variations in homicide rates (it should be noted that our estimates for medieval populations are only approximate, which makes the construction of crime rates an imperfect science) from 5 per 100,000 population in thirteenth-century Bristol to 110 per 100,000 in fourteenth-century Oxford. A cluster of samples, however, suggests a typical thirteenth-century rate of around 18 to 23 per 100,000. We then have more samples to suggest that the rate dropped a little, perhaps to 15 per 100,000 in 1600, and then fell dramatically over the middle of the seventeenth century.

This drop, which has been noted in all of the relatively few areas for which relevant evidence survives, remains inexplicable. It does, however, constitute a marked and sharply focused shift between "medieval" high levels of homicide and "modern" low ones. Research by J. M. Beattie has taken the story, for at least two English counties, through to the end of the eighteenth century. In the period 1660–79, homicide indictments were running at 8.1 per 100,000 in urban Surrey (essentially Southwark, a large built-up area directly south of the Thames from the City of London), 4.3 in rural Surrey, and 2.3 in the largely rural county of Sussex. By the period 1780–1802 the rates had fallen in all three areas to 0.9 per 100,000, at which level it was to stay nationally over the nineteenth and much of the twentieth centuries.¹⁷ J. S. Cockburn has also carried out a long-term study of homicide in Kent, where he has traced a fall from around 6 homicides per 100,000 population

in the late sixteenth century to less than 1 in the twentieth.¹⁸ There may well be regional variations, but the overall pattern seems clear.

The pattern with property offenses is less unequivocal. Clearly, they were already the most frequently indicted felonies in the fourteenth century: Hanawalt's figures demonstrate that between 1300 and 1348 such infractions regularly constituted between two-thirds and three-quarters of felonies indicted in her sample of assize courts.¹⁹ They remained so in the second half of the sixteenth: to take an extreme case, Middlesex, which already in that period included suburbs of London, on surviving documentation experienced 7,158 indictments for property offenses between 1550 and 1625 as opposed to 400 for homicide.²⁰ Over roughly the same period, 1559–1625, the mainly rural county of Sussex experienced 1,664 assize indictments for property offenses as opposed to 219 for homicide.²¹ Taking a longer time span, Cheshire's Court of Great Sessions between 1580 and 1709 tried 2,875 property offenses as opposed to 623 homicides,²² the relatively high ratio of homicides here being possibly a sign of a regional variation. What is more surprising is the chronology of indictments: in brief, there was no linear move toward higher levels of indictment of property offenses. Such indictments were, of course, prone to short-term fluctuations. In Essex, for example, sharp rises in the level of prosecuted property offenses occurred during the years of bad harvest in the late 1590s, the period 1629–31 when a trade depression hit the county's cloth industry, the years 1648–52 and 1661, again periods of bad harvests, and the years of dearth at the very end of the seventeenth century.²³ The long-term trend, however, was for property offenses to decline over the seventeenth century. The same trend was demonstrated in Cheshire, the archives of which county's Court of Great Sessions are probably the best series surviving for any English county. There property offenses were running at an average of 30 a year in the 1590s, peaked at an average of 50 a year in the 1620s, but then fell rapidly in the late seventeenth century to around 7 a year in the first decade of the eighteenth century.²⁴ The great decline in homicide in the seventeenth century was not accompanied by a rise in property offense prosecutions, but rather by their diminution.

Beattie's work on Surrey and Sussex allows us to take the story into the early nineteenth century. In urban Surrey indictments for property offenses were running at 60 to 70 a year in the late seventeenth century and, despite the odd isolated peak, were not to increase much over this until the final two decades of the eighteenth century, reaching about 200 in 1800.²⁵ As in the seventeenth century, property offenses tended to fluctuate in the face of harvest failure and trade depressions, although an additional factor was now

present: the impact on criminal statistics of the discharge of large numbers of soldiers and sailors in the aftermath of the century's wars.²⁶ Population increase, and the disruption caused by the early stages of industrialization and the growth of urban centers, meant that totals of prosecuted crimes, above all of larceny, increased rapidly over the first forty years of the nineteenth century. The situation is still not totally clear, yet current research suggests that this increase was as marked in rural areas as it was in the industrializing ones, while increases in prosecutions of property offenses were still linked closely to periods of bad harvest.²⁷

As the nineteenth century progressed, however, criminal statistics point toward a changing situation. Deficiencies in recordkeeping make it difficult to talk of national patterns before 1857, but from that date national statistics are available for analysis.²⁸ They indicate a very stable situation in indictable offenses between that date and the outbreak of the First World War. Combining larcenies (always more than 90 percent of offenses) with crimes such as burglary produced an annual average total of some 50,000 to 55,000 indictments, rising toward 60,000 over the Edwardian period. These property offenses overwhelmingly outnumbered crimes against the person, by over 23 to 1 in the years 1857–60. But it is, however, the very stability of the situation suggested by these statistics that causes problems for a simplistic notion of "modernization." England and Wales were a lot more "modern" in 1914 than in 1857, and certainly had a higher population, yet in the late Victorian and Edwardian periods the crime rate, for both property offenses and crimes against the person, had fallen, in both cases by 43 percent. Moreover, there had been no increase in the ratio of property crime against crimes of violence. As we have seen, this stood at over 23:1 in 1857–60: in 1906–10 it stood at just over 22:1; in 1911–13 at just under 19:1. On a simplistic reading of these statistics, crime in Victorian England, if we accept rising crimes against property and Zehr's use of a rising Theft/Violence Ratio as indicators, became as modern as it was going to get around 1860. Certainly, there is a strong contrast between the first half of the century and the second: indeed, according to Vic Gatrell, whose work has done so much to illuminate the history of crime in the period, it was 1842 that was "the year of the most intense judicial activity against crime in the century."²⁹ It was the period of transition toward an industrial society, not the period in which that society matured, that created a severe law and order problem; this problem existed in reality, and, to an even more marked extent, in elite preoccupations.

Once more, however, we must remind ourselves that more complex patterns emerge when we turn from felony to minor offenses. These have not

been much studied outside the sixteenth and seventeenth centuries, but the evidence here gives a clear demonstration of some of the difficulties. The first of these was the long-term rise, varying regionally in its chronology, of what might be described as regulatory offenses: infringing the statutes regulating the economy, keeping an unlicensed alehouse, bearing or fathering an illegitimate child, being a vagrant, following a trade without having been apprenticed to it, and so on. These offenses were essentially created by an intermittent legislative drive that, from the 1530s, aimed at creating a more disciplined set of subjects for England's rulers. The imperatives of Tudor state-building interacted with the moral imperatives of the Reformation to create a new model of the citizen of the godly commonwealth: hardworking, sober, chaste, and with the values of the current religious settlement fully internalized. It proved difficult to produce such subjects; but attempts at moral, personal, and economic regulation through the course created distinctive patterns of prosecution in the early modern period. So from an early date our study of crime statistics is bedeviled by what the British criminologist Jason Ditton has described as "control waves"³⁰ created nationally by central government, or locally through county magistrates, urban authorities, or, indeed, even by godly parish elites.³¹

Tracing the progress of such regulatory prosecutions is complicated by the presence of a multiplicity of courts. Broadly, the objectives of these courts (the quarter sessions, local borough sessions, manorial courts, ecclesiastical courts, and, after the 1630s, petty sessions) were to punish and curb those nuisance offenses that were steadily being redefined as characteristic of the poor: petty theft, sexual immorality, bastard-bearing, drunkenness, vagrancy, or such community disorders as scolding or petty assault. In the fifteenth century, persons committing such offenses might come before a jury of their more substantial neighbors at the local manorial court.³² In the later sixteenth and early seventeenth centuries, as the manorial courts declined, those same substantial neighbors might petition about nuisance offenders to the quarter sessions in hopes of having them bound over to keep the peace, or present them before the archdeacon's court. From the later seventeenth century they would appear before two or three local justices at petty sessions, or perhaps just be fined or sent to the house of correction by a single justice on summary conviction. The impact of these varied ways of dealing with petty offenses on crime statistics would be enormous, and would also raise a few problems about tracing modernity. Thus, combining indictments and presentments, 3,514 offenses came formally to the notice of the Essex quarter sessions between

1628 and 1632. These included 144 thefts and 48 assaults. They also included 480 prosecutions for allowing roads or bridges to fall into decay, 229 for keeping a disorderly alehouse, and 684 for failing to attend church.³³

Another area that needs investigating is the nature of the criminals. Over the middle of the nineteenth century, debate on this issue was dominated by the concept of the "criminal class."³⁴ The existence (and novelty) of such a stratum lay at the center of Victorian debate on crime and punishment, and in the shape of "deviant subcultures" or "criminal areas" has survived into twentieth-century criminology. Popularized by such media as television and the press, the concept is still prevalent among the general public. If we return to the Middle Ages we apparently see a different pattern (although there is, of course, the possibility that we have been misled by a few well-documented cases) with heavy noble or gentry involvement in violence or extortion, and with occasional references to organized robbery or extortion headed by elite people.³⁵ This pattern had obviously disappeared by the late eighteenth century, when (apart from a few acts of violence and the odd fraud) the upper classes were extremely unlikely to be perceived as the perpetrators of serious crime. The whole issue is, however, complicated greatly by the problem of what we would describe as "white-collar" crime, whose history, as we have noted, awaits detailed investigation. If we are allowed to set this complication aside, it is obvious that some real changes had occurred.

Linking all this to socioeconomic change is a matter that should not be oversimplified. Yet whatever qualifications we make, it is evident that such links did exist. Let us return to the eighteenth century. By that era, England was enjoying an increasingly commercial and capitalist economy, and by its end was experiencing the fruits of a massive overseas trade and the early stages of what we have christened the Industrial Revolution. In the course of that century we can see a number of developments that might be interpreted as symptomatic of a criminality that was developing in keeping with economic change. The issue is not so much statistics of prosecution but levels of organization. By a happy coincidence, the rise of the country's first great criminal entrepreneur, Jonathan Wild (1683-1725), coincided roughly with that rise in capitalist speculation that abruptly ceased when the South Sea bubble burst.³⁶ In the localities, it is possible to see both smuggling and poaching becoming better organized in response to a growing demand for semiluxury items.³⁷ Thus despite the persistent image of the poacher as a "social criminal," taking the odd rabbit to feed his family, it is clear that poaching in the eighteenth century became an increasingly commercialized and organized activity responding to a demand for game among a more numerous, prosper-

ous, and socially aspirant urban bourgeoisie. There are, therefore, some suggestions that as we try to uncover levels of organization of crime we may find some links with economic advance, and hence modernization.

The problem of organized crime, gentry-led medieval robber bands apart, has so far received little attention from historians. One place where some organization did exist was London, again suggesting a link between levels of economic and criminal organization. By the late sixteenth century London was demonstrating two symptoms of "modern" organized crime, namely organized prostitution and the organized receiving of stolen goods. One writer has postulated the existence in the capital of types of thieving that corresponded to the artisanal nature of the prevalent mode of industrial production. The main problem here, however, is that in the eighteenth century as in the late twentieth, most forms of crime, and certainly most criminals, were neither "organized" nor "professional." Court records for London have so far received little attention, and those for provincial towns have hardly been touched. Yet it remains inherently probable that for every "professional" criminal making a living from organized crime there were numerous petty opportunistic thieves, and that for every prostitute in a high-class brothel there were many casual or part-time ones. The search for the emergence of "organized" crime or of a "criminal class" obscures much of the reality of the experience of crime in the past.

We might also pause to consider whether those general developmental models that, as was suggested earlier, underpin the very notion of "modernization" might not need questioning. These main elements in these models are familiar enough: the move from a "traditional" or "preindustrial" world where the community and the extended family exercised a powerful social control, to an industrial society based on class, commerce, and individualism. This model has been questioned by a number of people taking a long view of English socioeconomic development, of whom perhaps the most radical is Alan Macfarlane.³⁸ Macfarlane's argument is that fundamental continuities have characterized English life since (at least) the thirteenth century (which is as far back as relevant records go). These continuities, all of them from an early date showing "modern" characteristics, are to be found in economic life, in the family, and in attitudes to property. They are also, Macfarlane has argued, present in the criminal behavior of the English.

Macfarlane's work on violence in English society, published in 1981, depended not on statistics (although he surveyed such secondary literature as was available when he wrote) but rather on a detailed case study concerning the activities of a criminal gang operating in the extreme northwest of

England in the later seventeenth century.³⁹ From this case study (we may safely dispense with discussion of the comparative project also present in the work) Macfarlane was able to demonstrate convincingly that even in a “backward” area of England crime was fairly “modern” in the period in question. He argued that if we accepted the standard preconceptions about “premodern” crime, “We should expect certain features in a country like England, if it was really going through the widely believed transition from a peasant/feudal society to a capitalist/modern one in the three centuries from about 1450 to 1750. We should find bandits, something akin to mafiosi, youth gangs, family feuds and vendettas, a high level of physical violence, but low level of theft, wandering bands of vagrant beggars.”⁴⁰ In fact, he argued that we find nothing of the sort. Homicides were rare, as were rape, arson, and large-scale cattle rustling. Conversely, Macfarlane argued, “what might be termed ‘capitalist crimes,’ those to do with money and private property, are more numerous,” among them counterfeiting coins and premeditated thefts, burglaries, and highway robberies.⁴¹ If we accept Macfarlane’s reading of the records, English crime did not need the mass industrialization and urbanization of the nineteenth century to modernize.

Macfarlane’s conclusions may seem overstated, and they are certainly based on a limited sample of documents. Yet they are in keeping both with such statistical evidence as we have and with the sense that is left with us after we read more qualitative materials. Discussing the “modernization” of English crime is complicated by the fact that much of it looks very modern from a fairly early date. There are two main factors at work here. First comes England’s early possession of a more effective monarchy and a more effective system of royal law than most comparable European states (experts on Anglo-Saxon history would claim pre-Conquest origins for this; I would feel more confident in directing the reader’s attention to the eleventh-century reforms of Henry II). Second, although we need not enter Macfarlane’s debate about the nonexistence of an English peasantry, there does, from an early date, seem to have been a peculiar social structure in rural England. This meant that, under the demographic pressures of ca. 1530–1640, rural England was already set en route for its classic nineteenth-century pattern of absentee landlord, prosperous tenant farmer, and landless agricultural laborer. A century before the Industrial Revolution, a large proportion of England’s workforce was, in effect, proletarianized. This proletariat was, of course, largely agricultural, but many of its members were already looking fairly “modern” in their relationship to the means of production.

This has, of course, serious implications for the history of crime in En-

gland. From the late sixteenth century, when the archives allow us to be definite on the point, a large number of people being tried for theft and other property offenses were clearly antecedents of what the Victorians were to characterize as a criminal class. They were laborers, live-in servants drifting between employment or thrown out of it for petty delinquencies, unmarried women servants who had lost their jobs because of pregnancy, artisans suffering seasonal unemployment, a small hard core of criminal vagrants: that vast body of the poor who found working, begging, and stealing equally attractive means of putting a few pence in their pockets. These were the flotsam of a changing system, as individuals normally pathetic cases, collectively an irritant rather than a threat to society, yet (like the industrial proletariat in its formative years two centuries later) a source of real fear to the propertied, a threat from below, a “many-headed monster” that might overthrow social hierarchies.⁴² How far back such people formed the bulk of England’s criminals is unclear. But, despite the model of a feudal criminality based on violence, there are clues that the lower orders constituted the main target of law enforcement agents as far back as the fourteenth century. Hanawalt’s figures, showing sharp increases in criminal prosecutions in response to bad harvests in the years 1300–48, suggest that then, as in the seventeenth century, most property offenders came from the lower peasantry, agricultural laborers, or poorer artisans.⁴³ As far as petty crime is concerned, the types of control being exercised by richer villagers through the manorial courts in the early fourteenth century (a period of acute demographic pressure) seem very similar in their concerns to those that activated village elites in the early seventeenth.⁴⁴ While we may be nervous about accepting a Macfarlanesque stress on social structural continuities, it is nevertheless a little difficult to establish when modernity established itself in English crime.

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It would, of course, be otiose to claim that nothing has changed with English crime since the Middle Ages. Indeed, living as I do in a period when law and order is a constant area of social concern, and where law and order problems can be closely linked to socioeconomic changes, makes studying crime in the past seem a very relevant activity. We look backward with considerable interest from late twentieth-century Britain, with its rising crime rates, its penal crisis, its decaying inner cities, and its emergent underclass, to earlier periods of transition when rising levels of prosecuted crime and rising levels of concern over law and order were linked symptoms of a more general feeling that the times were out of joint. Yet considering these early periods

performs two initial essential functions for the historian. First, it helps avoid simplification. The deeper we penetrate into the history of crime in the past, the more our easy stereotypes, whether of a violent feudal criminality or of the idyllic and stable village community, begin to disintegrate. Second, we really do need to take a long-term view of the subject. Here as elsewhere, attaining universal knowledge is an impossibility; but studying crime and criminals in relatively distant periods is a useful, if sometimes uncomfortable, corrective to conventional wisdom.

The issue, however, takes us beyond amassing criminal statistics and cataloging elite fears about a disintegrating social order, interesting and important though these processes may be. It also involves shifts in individual psychology. After over a century of criminology it seems there is still little consensus over why criminals commit crimes, and a plea for a longer-term perspective on this problem may seem quixotic. Yet one avenue toward understanding how crime modernized must be to set the question in the wider context of how the personal comportment, psychological framework, and expectations about interpersonal interactions of individuals altered. The process of examining this problem has scarcely begun, at least as far as England is concerned.⁴⁵ Even so, the propensity to commit various types of crime must surely be an important element in that "civilizing process" to which a number of historians are currently turning their attention. At the very least, the declining taste for violence that logic suggests underlay the long-term decline in homicide prosecutions would seem to be amenable to investigation along these lines.

On safer grounds, I would suggest that another medium through which the process of the modernization of crime in England might be approached is the relationship between the community (a term that is, I realize, not unproblematic) and crime. Whether crime has modernized or not, the means of repressing it certainly have. The prison, the professional police officer, that whole "penal-welfare complex" to which David Garland refers⁴⁶ is evidence enough of this. Yet before the nineteenth century many petty offenses were tried in an essentially local context: before the manorial court in the fifteenth century, in the parlor of the local justice of the peace in the eighteenth (this shift itself is important). Thus the treatment of crime, assumptions about criminals, and patterns of prosecution were sometimes very different in the early modern period from those currently existing. Indeed, there were some offenses (notably scolding and witchcraft) that seem in many ways to have been connected intimately to late medieval or early modern village and small-town communities. Modernization of crime involves changes not only in the

individual, the community, and the state, but in the relationship between them.

This provokes the not very surprising conclusion that to understand crime in the past (as in the present) it must be placed in the context of a number of other phenomena: the level of economic development and the complexity of the social structure, of course, but also the family, religion, perceptions of community, the nature of the apparatus of law enforcement, and the personnel staffing that apparatus. Despite the best efforts of social theorists, I am resistant to the notion that these entities changed in close step with each other. Tracing the long-term changes in these (and other) phenomena, and clarifying the nature of the connections in changes between different phenomena, should be fairly close to the top of the historian's agenda. This chapter has pointed to at least some of the complexities that emerge when the history of crime is approached along these lines.

Notes

1. Joseph Bain, ed., *The Border Papers: Calendar of Letters and Papers Relating to the Affairs of the Borders of England and Scotland Preserved in Her Majesty's Public Record Office* (Edinburgh, 1896), 2:686-88.
2. Howard Zehr, *Crime and the Development of Modern Society: Patterns of Criminality in Nineteenth-Century Germany and France* (London, 1976), 11.
3. Michael R. Weisser, *Crime and Punishment in Early Modern Europe* (Hassocks, 1979), 107.
4. Zehr, *Crime and the Development of Modern Society*, 125.
5. This is a point made forcefully by J. C. D. Clark, *English Society, 1688-1832* (Cambridge, 1985); see also J. A. Sharpe, *Early Modern England: A Social History, 1550-1760* (London, 1987), 147-51.
6. Most of the recent publications in the field are discussed in J. A. Sharpe, "The History of Crime in England c. 1300-1914," *British Journal of Criminology* 28 (1988): 254-67.
7. E. P. Thompson, "Happy Families," *New Society* 41 (1977): 499.
8. For discussion of some of the difficulties in using criminal statistics derived from historical periods, see: J. A. Sharpe, *Crime in Early Modern England, 1550-1750* (London, 1984), chap. 3, "Measuring Crime, Measuring Punishment"; Clive Emsley, *Crime and Society in England, 1750-1800* (London, 1987), chap. 2, "The Statistical Map."
9. Barbara A. Hanawalt, *Crime and Conflict in English Communities, 1300-1348* (Cambridge, Mass., 1979), chap. 3, "The Crimes: Definitions, Patterns and Techniques."

10. Joel Samaha, *Law and Order in Historical Perspective: The Case of Elizabethan Essex* (New York, 1974); J. S. Cockburn, "The Nature and Incidence of Crime in England, 1559-1625: A Preliminary Survey," in *Crime in England, 1550-1800*, ed. J. S. Cockburn (London, 1977); J. A. Sharpe, *Crime in Seventeenth-Century England: A County Study* (Cambridge, 1983); C. B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987).

11. The outstanding study of this period is J. B. Beattie, *Crime and the Courts in England, 1660-1800* (Oxford, 1986).

12. Another outstanding piece of historical scholarship, this time dealing with nineteenth-century crime statistics, is V. A. C. Gatrell, "The Decline of Theft and Violence in Victorian and Edwardian England," in *Crime and the Law: The Social History of Crime in Western Europe since 1500*, ed. V. A. C. Gatrell, B. P. Lenman, and G. Parker (London, 1980). This piece represents further thinking on themes introduced by V. A. C. Gatrell and T. B. Hadden, "Nineteenth-Century Criminal Statistics and Their Interpretation," in *Nineteenth-Century Society: Essays in the Use of Quantitative Methods for the Study of Social Data*, ed. E. A. Wrigley (London, 1972). For a shorter guide, see Emsley, *Crime and Society*, chap. 2.

13. The best regional study of crime in the nineteenth century is provided by David Philips, *Crime and Authority in Victorian England* (London, 1977).

14. J. A. Sharpe, "Crime and Delinquency in an Essex Parish, 1600-1640," in *Crime in England*, ed. Cockburn, 109.

15. In considering homicide, arguing from assault statistics is difficult. First, the technical legal definition of what constituted as assault meant that assault indictments at the assizes or quarter sessions are imperfect guides to acts of violence. Second, where such jurisdictions were still active, well into the seventeenth century assault cases might be tried, sometimes in large numbers, at the local manorial court leet. These problems are discussed in Sharpe, *Crime in Seventeenth-Century England*, 117-18; idem., *Crime in Early Modern England*, 26.

16. The literature on the history of homicide in England is reviewed by Lawrence Stone, "Interpersonal Violence in English Society, 1300-1983," *Past and Present* 102 (1983): 22-33.

17. Beattie, *Crime and the Courts*, 107-13.

18. J. S. Cockburn, "Patterns of Violence in English Society: Homicide, 1560-1985," *Past and Present* 130 (1991): 70-106.

19. Hanawalt, *Crime and Conflict*, 237.

20. Sharpe, *Crime in Early Modern England*, 55.

21. Cockburn, "Nature and Incidence of Crime," 55.

22. Sharpe, *Crime in Early Modern England*, 55.

23. Sharpe, *Crime in Seventeenth-Century England*, 198-201.

24. Sharpe, *Crime in Early Modern England*, 60.

25. Beattie, *Crime and the Courts*, figure 5.4, 214.

26. Ibid., 202-36; Douglas Hay, "War, Dearth and Theft in the Eighteenth Century: The Record of the English Courts," *Past and Present* 95 (1982): 117-60.

27. Emsley, *Crime and Society*, 29-33.

28. These calculations are based on data provided by Gatrell, "Decline of Theft and Violence," 282.

29. Ibid., 283.

30. Jason Ditton, *Controlology: Beyond the New Criminology* (London, 1979), especially chap. 2, "Crime Waves or Control Waves? A Recipe for Atheistic Statisticians."

31. The classic study of the interrelationship among social, economic, and cultural changes in a community and the problem of the control of crime and delinquency is Keith Wrightson and David Levine, *Poverty and Piety in an English Village: Terling, 1525-1700* (New York, 1979); see also Keith Wrightson, "Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth-Century England," in *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries*, ed. J. Brewer and J. Styles (London, 1980).

32. This is a theme discussed in Marjorie K. McIntosh, *Autonomy and Community: The Royal Manor of Havering, 1200-1500* (Cambridge, 1986).

33. Sharpe, *Crime in Early Modern England*, 49-50.

34. The nineteenth-century concept of a criminal class is described in Emsley, *Crime and Society*, chap. 6, "A Mid-point Assessment: The Criminal Class and Professional Criminals."

35. For an introduction to this subject, see Barbara Hanawalt, "Fur Collar Crime: The Pattern of Crime among the Fourteenth-Century English Nobility," *Journal of Social History* 8 (1975): 1-17. For a well-documented example of a deviant medieval gentry family, see E. L. G. Stones, "The Folvilles of Ashby-Folville, Leicestershire, and Their Associates in Crime, 1326-1341," *Transactions of the Royal Historical Society*, 5th Series, 7 (1957): 117-36.

36. Wild's career and significance are discussed in Gerald Howson, *Thief-Taker General: Jonathan Wild and the Emergence of Crime and Corruption as a Way of Life in Eighteenth-Century England* (New Brunswick, 1985).

37. Smuggling has attracted little attention from serious historians; for some initial comments, see Cal Winslow, "Sussex Smugglers," in Douglas Hay et al., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (London, 1975). Poaching is described in P. B. Munsche, *Gentlemen and Poachers: The English Game Laws, 1671-1831* (Cambridge, 1981). This should be read in conjunction with Douglas Hay, "Poaching and the Game Laws on Cannock Chase," in Hay et al., *Albion's Fatal Tree*; and D. J. V. Jones, "The Poacher: A Study in Victorian Crime and Protest," *Historical Journal* 22 (1979): 325-60.

38. Alan Macfarlane's oeuvre is extensive, but I feel that his general approach is best represented in two works: *The Origins of English Individualism* (Oxford, 1978) and *The Culture of Capitalism* (Oxford, 1987).

39. Alan Macfarlane, *The Justice and the Mare's Ale: Law and Disorder in Seventeenth-Century England* (Oxford, 1981). Macfarlane's views on this subject are restated in his *Culture of Capitalism*, chap. 3, "Violence: Peasants and Bandits."

40. Macfarlane, *Justice and the Mare's Ale*, 185.

41. *Ibid.*, 186.

42. This subject has not received the attention it deserves. For an initial discussion, see Christopher Hill, "The Many-Headed Monster in Late Tudor and Early Stuart Thinking," in *From the Renaissance to the Counter Reformation: Essays in Honour of Garrett Mattingley*, ed. C. H. Carter (London, 1966).

43. Hanawalt, *Crime and Conflict*, 243–50.

44. For some initial comments on this point, see J. A. Sharpe, "The History of Crime in Late Medieval and Early Modern England: A Review of the Field," *Social History* 7 (1982): 202–3.

45. Robert Muchembled, *L'Invention de l'homme moderne: Sensibilités, moeurs et comportements collectifs sous l'ancien régime* (Paris, 1988), is a suggestive example of how such a study might be conducted.

46. David Garland, *Punishment and Welfare: A History of Penal Strategies* (Aldershot, 1985).

2

Criminality, Social Control, and the Early Modern State: Evidence and Interpretations in Scandinavian Historiography

Eva Österberg

• The Problem and the State of Research

People in the Icelandic sagas—and the narratives themselves—are impelled by powerful human passions: love, hate, pride, envy. This is vital in stories intended to captivate their audience, to spellbind listeners of both sexes and all ages with the excitement of eternal existential problems.

Yet there are other features in the sagas that modern cultural analysis has considered less dependent on the requirements of the literary genre and thus a more revealing expression of the Scandinavian mentality. These include the legalism that pervades the sagas.¹ One is struck by the extent to which people think and argue in legal terms. This applies to men in conflict, to men demonstrating their power and influence. But it also applies within the family, in the most sensitive situations of domestic life and sexuality, where both men and women know very well what they have a right to demand. We see this, for instance, in the way the marital conflict between Thorkell and Asgerd is solved in the Saga of Gisli, when Asgerd threatens with legal arguments to seek a divorce if Thorkell in his wounded pride does not stop excluding her from the marital bed. It is also clear from Gudrun's and Thord's discussion of male and female obligations in Laxdaela Saga.

When reading the sagas it is impossible to ignore the role played by law as an accepted system of norms and by the thing, the Icelandic judicial assembly. The *thing* is the hub of events. It is where people come to obtain satisfaction, where reconciliations are made, where little men seek out the strongest and wisest for advice about how to pursue the judicial process.