

SCIENTIFIC PROPOSAL

The historical existence of social conflicts for which the legal system articulates repressive responses (sentences with security measures, penalties...) or remedial responses (compositions, restitutions, reconciliations...) that the public power implements or authorizes, refers to the pre-configuration of an alternative sphere of submission or social transgression where the constitutive margins of an order are revealed in which the conversion of its peculiarities into a legal object is manifested in a rich genetics. In Albrecht CLASSEN & Connie SCARBOROUGH (eds.), *Crime and Punishment in the Middle Ages and Early Modern age. Mental-historical investigations of basic human problems and social responses*, Berlin-Boston, 2012, this dynamic of the legal-criminal is already considered in contact with social history and mentalities. Well, in the same initial understanding of the phenomenon of conflict and its resolution, the need to study those legal figures whose nature affects a high degree of ambiguity is highlighted, now in its theoretical definition, now in their practical detection, because of the influence of moral standards or the clandestine situation, relevant to the effectiveness of the old legal norm that responds, or of the new one that is emerging. From this point of view, the transformations that imperative legal forms undergo, from early Modernity to the transition to the liberal State of Law, based on moral and religious variables, are appreciated in all their instability (including decriminalization or decriminalization), for example in the pathologies of spell, sodomy, incest, adultery, infanticide or suicide. These are topics with recent bibliography. About the spell, Georg MODESTIN & Alexia REY & Céline ROCHAT, “La répression de la sorcellerie à Fribourg en Suisse au tournant du XVI^e siècle: les spécificités d’une juridiction laïque”, *Cahiers de Recherches Médiévales et Humanistes*, 22 (2011), 279-288. About sodomy, Milagros ÁLVAREZ URCELAY, ‘*Causando gran escandalo e murmuration*’: sexualidad transgresora y su castigo en Gipuzkoa durante los siglos XVI, XVII y XVIII, Bilbao, 2012; y Silvia FALCETTA, “Omossessualità e Diritto penale in occidente: profili storici di decriminalizzazione e problematiche aperte”, *Sociologia del Diritto*, 40-1 (2013), 11-40. About incest, Isabelle BRANCOURT, “Au plus près des sources du Parlement criminel: jalons sur l’inceste au début du XVIII^e siècle”, *Revue Historique de Droit Français et Etranger*, 3 (2014), 437-451; y Fabienne GIULIANI, *Les Liaisons interdites. Histoire de l’inceste au XIX^e siècle*, Paris, 2014. About adultery, Maria Gigliola DI RENZO VILLATA, “Dall’amore coniugale ‘proibito’ all’infedeltà. L’adulterio nelle ‘Summae confessorum’ italiane (XIV-XVI secolo)”, *Italian Review of Legal History*, 1 (2015), 1-41, y Sara BEAM, “Gender and the prosecution of adultery in Geneva, 1550-1700”, in M. Van Der Heijden & M. Pluskota & S. Muurling (ed.), *Women’s Criminality in Europe, 1600-1914*, Cambridge, 2020, pp. 91-113. About infanticide, Francesca DE RIENZO, *Uccidere l’anima attraverso il corpo. L’infanticidio in Età Moderna*, Salerno, Università degli Studi di Salerno, 2012. And about suicide, Lucio BIASIORI, “Per una storia sociale del suicidio nell’Italia moderna”, *Studi Storici. Rivista Trimestrale dell’Istituto Gramsci*, 52-2 (2011), 490-508; Sonja DESCHRIJVER, “From sin to insanity? Suicide trials in the Spanish Netherlands, sixteenth and seventeenth centuries”, *The Sixteenth Century Journal*, 42-4 (2011), 981-1002; Richard BELL, *We Shall Be No More. Suicide and Self-Government in the Newly United States*, Cambridge, 2012; Dominique GODINEAU, *S’abrèger les jours. Le suicide en France au XVIII^e siècle*, Paris, 2012; Paolo BERNARDINI & Anita VIRGA (ed.), *Voglio Morire! Suicide in Italian Literature, Culture, and Society 1789-1919*, Newcastle upon Tyne, 2013; Michael BOZEMAN, *The Common Language of Homicide and Suicide. Evidence of the Value of Durkheim’s Typologies*, El Paso, 2014; y Ramón ANDRÉS GONZÁLEZ-COBO, *Semper dolens. Historia del suicidio en Occidente*, Barcelona, 2015; añade la perspectiva de género Rikka MIETTINEN, “Gendered suicide in early modern Sweden and Finland”, in M. G. Muravyeva & R. M. Toivo (ed.), *Gender in Late Medieval and Early Modern Europe*, New York-Abingdon, 2013, 173-190. Therefore, it is convenient to study what Elwin Hofman HOFMAN, “An obligation of conscience: gossip as social control in an eighteenth-century Flemish town”, *European Review*

of History, 21-5 (2014), 653-670, he has called "social control of the obligation in conscience"; in this way, there is an enrichment in the examination of the legal typology that at the same time generates a coherent sociological typology.

By the way, in what these typologies have of social practices controlled or directly prohibited by criminal legal norms, but at the same time of deep-rooted uses or customs by virtue of certain conditions of a moral or religious, social or even economic, subjective or objectives, can be verified not only in the context of the substantive criminal typicity, but also of the procedural one, in the manner of a private conflict resolution, as evidenced by the resistant and decadent practice of mourning and private revenge, of which there have been busy Ulrike LUDWIG & Barbara KRUG-RICHTER & Gerd SCHWERHOFF (hg.), *Das Duell. Ehrenkämpfe vom Mittelalter bis zur Moderne*, Konstanz, 2012; Colin ROSE, "To be remedied of any vendetta: petitions and the avoidance of violence in early modern Parma", *Crime, Histoire & Sociétés*, 16-2 (2012), 5-27; Denis BJAÏ & Myriam WHITE-LE GOFF (dir.), *Le duel entre justice des hommes et justice de Dieu du Moyen Âge au XVIIe siècle*, Paris, 2013; Bryan CARELLA, "The earliest expression for outlawry in Anglo-Saxon Law", *Traditio*, 70 (2015), 111-144; and Claude GAUVARD & Andrea ZORZI (dir.), *La vengeance en Europe du XIIe au XVIIIe siècle*, Paris, Publications de la Sorbonne, 2015.

In this same circle of concerns, apparently diverse institutional problems stand out, but they refer to the existence of common fields of obligation and prohibition violated by a practice that responds to the development of capitalist and industrial activity (smuggling), and also to the way to contemplate penological issues of not strictly criminal roots (prison for civil debt). The first can be seen in Ángel ALLOZA APARICIO, "Contraband in Portugal during the first half of the seventeenth century. The economic roots of an anti-Spanish feeling", in C. Martínez Shaw & J. A. Martínez Torres (dir.), *Spain and Portugal in the world (1581-1668)*, Madrid, 2014, 61-87; George T. DÍAZ, "Necessity makes legal what is illegal by law: smuggling on the Spanish border in North America, 17th-18th centuries", in P. Sanz Camañes & D. Rex Galindo, *The border in the Hispanic world*, Quito, 2014, 399-413; and Miguel Ángel MELÓN JIMÉNEZ, "Serving and using the State. Pedro López de Lerena and the persecution of smuggling in 18th century Spain", *Modern Times*, 30 (2015), 1-22. And the second in Gustav PEEBLES, "Washing away the sins of debt: the nineteenth-century eradication of the debtors' prison", *Comparative Studies in Society and History*, 55-3 (2013), 701-724.

Obviously, the analysis of the fields of the obligation and prohibition of mandatory legal norms of the public administration in relation to social phenomena generates at the same time the convenience of locating and examining the operation of the areas of permissiveness that, by default or by express authorization, they rule under the influence of political power. There are important criminal institutions from this point of view, insofar as they are subjected to a continuous process of decriminalization that cannot be considered otherwise exclusively "enlightened", because it has developed since the dawn of the Modern Age. In this sense, unstable and exceptional prohibitions are found, which obviously have a lot to do with the difficulty of exercising public control, and with their marginal circulation, as is the case with the libelous libel or the anonymous complaints, as highlighted by Patrizia DE EXCEPT, "Sarà delitto il pubblicare scritti di qualunque sorta... che contengano libelli infamatori!': un processo per violazione della libertà di stampa nella Sicilia costituzionale (1810-1815)", *Acta Histriae*, 19-3 (2011), 505-522, and Laura AMATO, "The obscure party: anonymous denunciations in the Republic of Venice", *Acta Histriae*, 22-1 (2014), 145-156. The very effectiveness of the repressive legal system can be permanently in question without the repulsion being weakened or the entrenched social practice weakened, as in the field of

prostitution, studied by Ann LEWIS & Markman ELLIS (ed.), *Prostitution and Eighteenth-Century Culture. Sex, Commerce and Morality*, London, 2011; Marion PLUSKOTA, *Prostitution in Bristol and Nante, 1750-1815: A Comparative Study*, Leicester, 2011; *Prostitution and Social Control in Eighteenth-Century Ports*, London, 2015; Gregory DURSTON, *Whores and Highwaymen. Crime and Justice in the Eighteenth-Century Metropolis*, Hook, 2012; *Wicked Ladies. Provincial Women, Crime and the Eighteenth-Century English Justice System*, Newcastle upon Tyne, 2013; Julia LAITE, *Common Prostitutes and Ordinary Citizens. Commercial Sex in London, 1885-1960*, Basingstoke, 2012; Nina KUSHNER, *Erotic Exchanges. The World of Elite Prostitution in Eighteenth-Century Paris*, Ithaca, 2013; and Jessica STEINBERG, *The Seven Deadly Sins of Prostitution: Perceptions of Prostitutes and Prostitution in Eighteenth-Century London*, Ottawa, 2015.

According to the most accurate bibliographic trend in the history of crime and in general the study of violence and conflict, the normative and social analysis of legal repression requires the understanding of qualifying aspects such as sex (including the sector of the gender violence), ethnicity or race, foreigners, social and economic status, faith and religious profession, age and marital status. With the neighboring problem of special or privileged jurisdictions, in line with the proposal of Pedro ORTEGO GIL, “Delincuencia patrimonial y jurisdicción militar durante el Sexenio absolutista”, *Cuadernos de Historia del Derecho*, 20 (2013), 155-189. These keys offer ways of interpreting pertinent historical sources for understanding the relationship between the individual, society and political power in situations of transgression, as well as the elaboration of formulas for legal reparation.

The historical bibliography on women related to the phenomenon of crime or violence is abundant. The extreme relationship with crime is the object of attention of Katherine D. WATSON, “Women, violent crime and criminal justice in Georgian Wales”, *Continuity and Change*, 28-2 (2013), 245-272; Samantha WILLIAMS, *Poverty, Gender and Life-Cycle under the English Poor Law, 1760-1834*, Woodbridge, 2011; Martine KALUSZYNSKI, “La femme (criminelle) sous regard du savant au XIXe siècle”, in C. Cardi & G. Pruvost (dir.), *Penser la violence des femmes*, Paris, 2012, 286-299; Anne-Marie KILDAY, “‘That women are but men’s shadows’: examining gender, violence and criminality in early modern Britain”, in M. G. Muravyeva-R. M. Toivo (ed.), *Gender in Late Medieval and Early Modern Europe*, New York-Abingdon, 2013, 53-69; “‘Outrageous acts and everyday rebellions’: criminal women in the eighteenth-century Scotland”, in K. Barclay-D. Simonton (ed.), *Women in the Eighteenth-Century Scotland. Intimate, Intellectual and Public Lives*, Farnham, 2013, 253-270; Alexandra ESTEVES, “A mulher e o crime, em Portugal, no século XIX”, in O. Fernández Álvarez (ed.), *Women at risk of social exclusion and gender violence*, León, 2014, 427-434; Chelsea D. M. HARTLEN, *Managing Criminal Women in Scotland: An Assessment of the Scarcity of Female Offenders in the Records of the High Court of Justiciary, 1524-1542*, Halifax, 2014; Darlene ABREU-FERREIRA, *Women, Crime, and Forgiveness in Early Modern Portugal*, Farnham, 2015; Maria Antónia LOPES, “Women condemned to death in Portugal: from 1693 to abolição da final punishment”, in I. M. R. M. D. Braga-M. Torremocha Hernández (coord.), *As mulheres perante os tribunais do Antigo Regime na Península Ibérica*, Coimbra, 2015, 119-145; and Manon VAN DER HEIJDEN & Marion PLUSKOTA & Sanne MUURLING (ed.), *Women’s Criminality in Europe, 1600-1914*, Cambridge, 2020. This legal-criminal connection is not only substantive, but also procedural, in Diana ARAUZ MERCADO, “La normativa hispano medieval y su aplicación en Indias: condición femenina dentro del marco penal y procesal”, *Estudios de Historia de España*, 14 (2012), 69-82, and Stephanie A. DROPULJIC, “The role of women in pursuing Scottish criminal actions, 1580-1650”, *Edinburgh Law Review*, 24-2 (2020), pp. 232-250. In the latest bibliographic trends, a certain specialty has been delimited by confining the matter, although not exclusively, under the so-called “gender perspective”, to the family and domestic sphere, as in Jonas LILIEQUIST, “Changing discourses of marital violence in

Sweden from the Age of Reformation to the late nineteenth century”, *Gender & History*, 23-1 (2011), 1-25; Julio Luis ARROYO VOZMEDIANO, “Maltrato de género en los procesos matrimoniales modernos. La Rioja, 1641-1713”, in A. Jiménez Estrella & J. J. Lozano Navarro (ed.), *Actas de la XI Reunión Científica de la Fundación Española de Historia Moderna. Comunicaciones*, Granada, 2012, II, 311-322; CASWELL, *Married Women, Crime, and Questions of Liability in England, 1640-1760*, Ontario, 2012; Joanne BAILEY & Loreen GIESE, “Marital cruelty: reconsidering lay attitudes in England, c. 1580 to 1850”, *The History of the Family*, 18-3 (2013), 289-305; Leah L. OTIS-COUR (ed.) *Histoires de famille. À la convergence du Droit pénal et des liens de parenté*, Limoges, 2012; Ashley Jessica SIMS, ‘*All in the Family*’. *Households and Petty Crime in Early Modern Scottish Burghs*, Edmonton, 2013; Alfredo MARTÍN GARCÍA, “Matrimonio y violencia doméstica en la España Moderna”, in O. Fernández Álvarez (ed.), *Mujeres en riesgo de exclusión social y violencia de género*, León, 2014, 449-446; Marija MOGOROVIĆ CRLJENKO, “The abduction of women for marriage: Istria at the beginning of the seventeenth century”, *Acta Histriae*, 22-3 (2014), 617-632; Alicia DUÑAITURRIA LAGUARDA, “El maltrato a las mujeres en el siglo XVIII”, *Clío & Crimen. Revista del Centro de Historia del Crimen de Durango*, 12 (2015), 91-108; and Manon VAN DER HEIJDEN, “Domestic violence, alcohol abuse and the uses of justice in early modern Holland”, *Annales de Démographie Historique*, 130-2 (2015), 69-85. A “gender” perspective that nevertheless can be expanded, from the family sphere, to the anthropological assessment of sexual patterns, as in Mats HALLENBERG, “The golden age of the aggressive male? Violence, masculinity and the state in sixteenth-century Sweden”, *Gender & History*, 25-1 (2013), 132-149; Jeannette KAMP, *Crime, Gender and Social Control in Early Modern Frankfurt am Main*, Leiden-Boston, 2020; and Ariadne SCHMIDT, *Prosecuting Women. A Comparative Perspective on Crime and Gender Before the Dutch Criminal Courts, c. 1600-1810*, Leiden-Boston, 2020. Other studies specify the position of women, as active or passive subjects, in the experience and legal treatment of specific crimes: Kathy CALLAHAN, “On the receiving end: women and stolen goods in London 1783-1815”, *The London Journal*, 37-2 (2012), 106-121; “Women who kill: an analysis of cases in the late eighteenth- and early nineteenth-century London”, *Journal of Social History*, 46-4 (2013), 1013-1038; and Rian SUTTON & Lynsey BLACK, “Detecting the murderess: newspaper representations of women convicted of murder in New York City, London, and Ireland, 1880-1914”, in A. Adam (ed.), *Crime and the Construction of Forensic Objectivity from 1850*, Cham, 2020, pp. 233-255. As well as in the experience and legal treatment of social institutions: Scott CRAIG, “Women, crime and the experience of servitude in Colonial America and Australia”, *Limina*, 19 (2013), 1-10.

The “gender” perspective in a more general sense relative to the phenomenon of violence is present in the works of Christophe REGINA, *La violence des femmes. Histoire d'un tabou social*, Paris, 2011; “Du rituel verbal au rituel judiciaire. L’injure et les femmes à Marseille au XVIIIe siècle”, in L. Faggion & L. Verdon (ed.), *Rite, justice et pouvoirs. France-Italie XIVe-XIXe siècle*, Aix-en-Provence, 2012, 247-253; *Genre, mœurs et justice. Les Marseillaises et la violence au XVIIIe siècle*, Aix-en-Provence, 2015; Isabel RAMOS VÁZQUEZ, *La mujer en la cárcel. Historia jurídica y políticas penitenciarias en España*, Córdoba, 2011; Elizabeth EWAN, “Impatien Griseldas: women and the perpetration of violence in sixteenth-century Glasgow”, *Florilegium*, 28 (2011), 149-168; Clara CHEVALIER, “Des émeutières passées sous silence? L’invisibilisation de la violence des femmes au prisme du genre (Paris, 1775)”, in C. Cardi & G. Pruvost (dir.), *Penser la violence des femmes*, Paris, 2012, 85-94; Miguel Luis LÓPEZ-GUADALUPE MUÑOZ, “Violencia y mujer en Granada en la primera mitad del siglo XVII”, *Les Cahiers de Framespa*, 12 (2013), 1-22; Randolph ROTH, “Gender, Sex, and Intimate-Partner Violence in Historical Perspective”, in R. Gartner & B. McCarthy, *The Oxford Handbook of Gender, Sex, and Crime*, Oxford, 2014, 175-190; María Sabina ÁLVAREZ BEZOS, *Violencia contra las mujeres en la Castilla del final de la Edad Media*, Valladolid, 2015; y

Raquel LÓPEZ MERCHÁN, “La violencia contra la mujer: evolución terminológica en España”, *Clío & Crimen*, 12 (2015), 109-124; this last author is also concerned with the study of certain protection mechanisms for women, as in “La carta de seguro: un instrumento de defensa de la mujer maltratada durante el reinado de los Reyes Católicos”, *Clío & Crimen*, 12 (2015), 65-90. Certainly this approach does not prevent highlighting the factor of the administration of justice, thus in Manon VAN DER HEIJDEN, “Women, violence and urban justice in Holland, c. 1600-1838”, *Crime, Histoire & Sociétés*, 17-2 (2013), 71-100, and in José Luis DE LAS HERAS SANTOS “La criminalidad femenina ante la justicia episcopal en la Salamanca del siglo XVII”, in I. M. R. M. D. Braga & M. Torremocha Hernández (coord.), *As mulheres perante os tribunais do Antigo Regime na Península Ibérica*, Coimbra, 2015, 85-109. The expansion of the analyzed historical phenomenology also allows the extension of the usual areas in which the conflict that affects women arises, as given by Luis M. BERNAL SERNA, “Responsabilidades y conflictividad de las mujeres en las localidades portuarias (Vizcaya, 1550, 1808)”, *Itsas Memoria*, 7 (2012), 197-210. Finally, a global vision can be found in Carolyn A. CONLEY, “Sexual violence in historical perspective”, in R. Gartner-B. McCarthy (ed.), *The Oxford Handbook of Gender, Sex, and Crime*, Oxford, 2014, 207-224; which does not prevent focusing the tract of mentality that reaches certain historical periods: Manon VAN DER HEIJDEN & Valentijn KONINGSBERGER, “Continuity or change? Female crime in the 19th-Century Netherlands”, *Crime, Histoire & Sociétés*, 17-1 (2013), 101-127. If in this Report we defend a canned conception of legal-criminal history, beyond criminality and close not only to violence, but to the problems set in the heart of transgression and conflict, as well as its perception and eventual reparation, we can now cite, with the same taste for semantic expansion in its approach, the work of Karine LAMBERT, *Itinéraires féminins de la déviance. Provence 1750-1850*, Aix-en-Provence, 2012.

Other qualifying factors other than the “gender” perspective receive less attention, but with certain constancy and, of course, with undoubted interest. There are two factors of greater recent treatment, such as those that have to do with social status and ethnicity. Regarding the first (including discrimination and differences based on social, political, religious or economic groups) we can refer to the perspective offered by João DE FIGUEIROA-REGO, “A violência no contexto dos processos de limpeza de sangue (séculos XVII e XVIII)”, in A. Jiménez Estrella & J. J. Lozano Navarro (ed.), *Actas de la XI Reunión Científica de la Fundación Española de Historia Moderna. Comunicaciones*, Granada, 2012, II, 408-415; Michele MANCINO & Giovanni ROMEO, *Clergy criminal. L'onore della Chiesa and i delitti degli ecclesiastici nell'Italia della Controriforma*, Roma-Bari, 2013; Salvador DAZA PALACIOS & María Regla PRIETO CORBALÁN, *Lucifer con hábito y sotana. Clérigos y homicidas en España y América (1556-1834)*, Sevilla, 2013; Anette BAUMANN & Alexander JENDORFF (hg.), *Adel, Recht und Gerichtsbarkeit im frühneuzeitlichen Europa*, München, 2014; Zoe ALKER, “The digital classroom: new social media and teaching Victorian crime”, *Law, Crime and History*, 5-1 (2015), 77-92; Anne-Marie KILDAY, “‘Criminally poor?’ Investigating the link between crime and poverty in eighteenth century England”, *Cultural and Social History*, 11-4 (2015), 507-526; and Neva MAKUC, “Noble violence and banditry along the border between the Venetian Republic and the Austrian Habsburgs”, *Mediterranea*, 33 (2015), 211-226. The racial or ethnic question has been addressed by Susan D. AMUSSEN, “Violence, gender, and race in the seventeenth-century English atlantic”, in A. E. Leonard-K. L. Nelson (ed.), *Masculinities, Childhood, Violence. Attending to Early Modern Women-and Men Proceedings of the 2006 Symposium*, Newark, 2011, 283-302; Enrique GARRIDO DÍEZ DE BALDEÓN, “Estudio aproximativo de la legislación relativa a la etnia gitana en los siglos XV, XVI y XVII; dificultades, controversias, aplicación y escritos de los memorialistas y arbitristas”, *Tiempos Modernos*, 23 (2011) 1-40; Ely AARONSON, *From Slave Abuse to Hate Crime. The Criminalization of Racial Violence in American History*, New York, 2014; Paolo MARCHETTI,

“Race and crime. A late nineteenth century Italian debate”, *Historia et Ius*, 6 (2014), 1-9; and Peter KING & John C. WOOD, “Black people and the criminal justice system: prejudice and practice in later eighteenth- and early nineteenth-century London”, *Historical Research*, 239 (2015), 100-124.

Religious communities have been analyzed by Rica AMRÁN (coord.), *Las minorías: ciencia y religión, magia y superstición en España y América (siglos XV al XVII)*, Santa Bárbara, 2015. Foreigners have been addressed by Matthew H. LOCKWOOD, “Love ye therefore the strangers': immigration and the Criminal Law in early modern England”, *Continuity and Change*, 29-3 (2014), 349-371. Regarding the minority—a very relevant issue in modern and contemporary legal-criminal treatment, both from the point of view of criminological assessment (areas susceptible to the proliferation of crime, social and economic conditioning, as well as educational, of subjects who suffer marginalization) as from the point of view of the institutional resources created to remedy social problems of family neglect, abandonment, etc.—we have the studies of Jean-Claude FARCY, “Quelques problèmes d'analyse de the youthful délinquance à la fin du XIXe siècle. L'exemple parisien”, *Criminocorpus. Justice des mineurs* (2012); Olga MARTÍNEZ ÁLVAREZ, *Justicia y protección de menores en la España del siglo XIX. La Cárcel de Jóvenes de Madrid y la Casa de Corrección de Barcelona*, Barcelona, 2012; Denis D. VASSIGH, “L'action juridique en faveur des enfants maltraités dans la deuxième moitié du XIXe siècle”, *Criminocorpus. Justice des mineurs* (2012); Thomas FADLALLAH, “Les meurtres commis par des enfants en France au XIXe siècle: une étude sociale”, *Criminocorpus. Justice des mineurs* (2014); Martina GIOVANNINI, “Per una storia degli istituti penal per i minorenni. Il Caso di Bologna”, *Historia et Ius*, 6 (2014), 1-23; and Marco Antonio LEÓN LEÓN, “Educación, regeneración y punición para la infancia anormal: las escuelas correccionales de Talcahuano y Concepción, Chile (1896-1915)”, in J. A. Trujillo Bretón (coord.), *Voces y memorias del olvido. Historia, marginalidad y delito en América Latina*, Guadalajara (Jalisco), Guadalajara, 2015, pp. 351-400.

Certainly, the study of social conflicts from a historical-legal perspective, and specifically in terms of the construction of a legal-criminal system, both in its criminal dimension (criteria and forms of typicity) and in its sanctioning dimension (admonitions, penalties and other measures) and very especially in the aspect of the administration of justice as an apparatus for the application and execution of legal repression, with the aim of understanding its criteria and also its limits (conflict resolution channels) requires consideration of the institutional machinery in charge of its elaboration and projection. In this sense, the most important thing is to complete the traditional analysis of "ius puniendi" with that of the appearance and operation of increasingly complex formulas for the prevention of legal transgression, both inherent to material legal regulation (thus the problem of legal measures of security, whose function does not lack similar historical, substantive and procedural resources) as well as in the formation of institutional structures (police, surveillance and preventive detention, etc.), in the different legal areas of criminal, civil, administrative control, etc. The public power thus uses coercion and coercion mechanisms (from political mediatization to, for example, procedural mechanisms or tax requirements) whose nature and connection require a careful study, and whose legal proximity to the sociological aspects of its problems are evident. The aspects to take into consideration are multiple. On the one hand, the criminal policy (with a certain legal axiology) that underlies the administration of justice in its potential invasion of acquired or individualized rights, as Paolo ALVAZZI DEL FRATE & Giulano SERGES do, “Garantismo e inquisizione. Considerazioni sulla giustizia criminale in Età Moderna”, in M. Cavina (a cura di), *La giustizia criminale nell'Italia Moderna (XVI-XVIII sec.)*, Bologna, Patron, 2012, 9-34; Sylvie BOISSONADE, “Les prémices de l'individualisation au cours du XIXe siècle en Europe en

matière de procédure et de pénologie”, *Revue Historique de Droit Français et Etranger*, 4 (2013), 725-739; and Pascal BASTIEN & Donald FYSON & Jean-Philippe GARNEAU & Thierry NOOTENS (dir.), *Justice et espaces publics en Occident, du Moyen Âge à nos jours. Pouvoirs, publicité et citoyenneté*, Québec, 2014. Within the study of the functioning of the central, territorial and local institutions of the administration of justice, they deserve a very relevant assessment, due to the proximity of their action to the social epicenter of conflicts, everything which relates to bodies of a jurisdictional or executive nature, along the lines, recently, of Lourdes AMIGO VÁZQUEZ, “La Justicia en escena. Ejecuciones públicas en el Valladolid del Antiguo Régimen”, in A. Jiménez Estrella & J. J. Lozano Navarro (ed.), *Actas de la XI Reunión Científica de la Fundación Española de Historia Moderna. Comunicaciones*, Granada, 2012, II, 11-23; Karl J. BERGEMANN, *Council of (in) Justice. Crime, Status, Punishment and the Decision-Makers in the 1730’s Cape Justice System*, Cape Town, 2011; Alejandro AGÜERO NAZAR, “On justice and ‘home rule’ tradition in the Spanish colonial order. Criminal justice and self-government in Córdoba del Tucumán”, *Quaderni Fiorentini*, 41 (2012), 173-221; David LEMMINGS (ed.) *Crime, Courtrooms and the Public Sphere in Britain, 1700-1850*, Farnham, 2012; Michael MACILWEE, *The Liverpool Underworld. Crime in the City, 1750-1900*, Liverpool, 2011; Milagros ÁLVAREZ URCELAY, “Los alcaldes y el corregidor como ejecutores de la represión de las conductas deshonestas en Gipuzkoa durante los siglos XVI, XVII y XVIII”, *Clío & Crimen. Revista del Centro de Historia del Crimen de Durango*, 10 (2013), 411-425; and Maria R. BOES, *Crime and Punishment in Early Modern Germany. Courts and Adjudicatory Practices in Frankfurt am Main, 1562-1696*, Farnham, 2013.

Of course, this is linked to the factor of procedural and ultimately punitive security measures, such as imprisonment in its various forms. The history of penitentiary law also has a wealth of baggage in recent years: Fernando José BURILLO ALBACETE, *La cuestión penitenciaria. Del Sexenio a la Restauración (1868-1913)*, Zaragoza, 2011; Isabelle HEULLANT-DONAT & Julie CLAUSTRE & Élisabeth LUSSET (dir.), *Diseases. Le cloître et la prison, (VIe-XVIIIe siècle)*, Paris, 2011; Laureano Manuel RUBIO PÉREZ (coord.), *Instituciones y centros de reclusión colectiva. Formas y claves de una respuesta social (siglos XVI-XX)*, León, 2012; Maria Romana CAFORIO, *Carceri e arresti a Bologna tra età napoleonica e restaurazione pontificia*, Rome, 2013; Isabel RAMOS VÁZQUEZ, *La reforma penitenciaria en la historia contemporánea*, Madrid, 2013; Pedro OLIVER OLMO & Jesús Carlos URDA LOZANO (coord.), *La prisión y las instituciones punitivas en la investigación histórica*, Cuenca, Universidad de Castilla-La Mancha, 2014; y Norwood ANDREWS, “Muros del presidio y trabajo de los convictos. El examen de los orígenes de los trabajos forzados en la frontera de Nueva España”, en P. Sanz Camañes & D. Rex Galindo (coord.), *La frontera en el mundo hispánico*, Quito, 2014, 323-338.

A consistent insertion of the execution of criminal law into the criminal policy of the public power requires a complementary assessment, as we have been underlining, of the conflict resolution mechanisms, and not only a posteriori, but also a priori, according to a criteria of prevention of political, legal and social control. This policy of conflict prevention, which, moreover, can both be due to multiple vectors and be individualized with respect to certain instruments or problems (the possession of weapons or the setting of fires, for example, as we will see in some bibliographic examples below) is present in the titles of Alfredo MARTÍN GARCÍA, “Marginación y mecanismos de control social en la Galicia de la Edad Moderna: la Real villa de Ferrol”, in C. Santos (coord.), *Família, espaço e património*, Porto, Centro de Investigação Transdisciplinar “Cultura, Espaço e Memória”, 2011, 329-341; R. Blake BROWN, *Arming and Disarming. A History of Gun Control in Canada*, Toronto, 2012; Bern MARTINO MONA, “Strafrecht Theoretische Grundlagen der Vereinheitlichung des Schweizer Strafrechts unter Carl Stooss: Die Wurzeln des Präventionismus”, *Zeitschrift für Neuere Rechtsgeschichte*, 35 (2013), 21-32; Ricardo M. MATA Y MARTÍN, “Aproximación a

Jovellanos penalista: magistrado, hospicios, prevención de delincuencia y su influencia en la Constitución de 1812”, in J. G. Fernández Teruel (dir.), *Estudios penales en homenaje al profesor Rodrigo Fabio Suárez Montes*, Oviedo, 2013, 425-446; Flávio BORDA D’ÁGUA, ‘Nada é mais perigoso do que o fogo’: prevenção e combate aos incêndios na Lisboa do Antigo Regime”, *Cadernos do Arquivo Municipal*, 2 (2014), 129-144; and Olli MATIKAINEN & Satu LIDMAN, *Morality, Crime and Social Control in Europe, 1500-1900*, Helsinki, 2014.

Certainly, in this preventive and control vision, it takes on a very singular bibliographic importance, which responds to an auxiliary institutional concretion of the strict administration of justice, with a functional governmental articulation sensitive to contact with conflictual social problems in general, and with the violence and crime in particular, the study of the police, to which are devoted Ulrike KRAMPL, *Les secrets des faux sorciers. Police, magie et escroquerie à Paris au XVIIIe siècle*, Paris, École des Hautes Études en Sciences Sociales, 2011; Douglas W. ALLEN & Yoram BARZEL, “The evolution of Criminal Law and police during the industrial revolution”, *The Journal of Law, Economics, & Organization*, 27-3 (2011), 540-567; Nicolas VIDONI, “Une ‘police des Lumières’? La ‘violence’ des agents de police à Paris au milieu de XVIIIe siècle”, *Rives Méditerranéennes*, 40-3 (2011), 43-65; John E. ARCHER, *The Monster Evil. Policing and Violence in Victorian Liverpool*, Liverpool, 2011; John M. BEATTIE, *The First English Detectives. The Bow Street Runners and the Policing of London, 1750-1840*, New York, 2012; Álvaro PARÍS MARTÍN, “Mecanismos de control social en la crisis del Antiguo Régimen: la superintendencia general de policía”, en A. Jiménez Estrella & J. J. Lozano Navarro (ed.), *Actas de la XI Reunión Científica de la Fundación Española de Historia Moderna. Comunicaciones*, Granada, 2012, I, 838-851; Jean-Marc BERLIÈRE & René LÉVY, *Histoire des polices en France. De l’Ancien Régime à nos jours*, Paris, 2011; Quentin DELUERMOZ, *Policiers dans la ville. La construction d’un ordre public à Paris, 1854-1914*, Paris, 2012; Gregory DURSTON, *Burglars and Bobbies. Crime and Policing in Victorian London*, Newcastle upon Tyne, 2012; Barry GODFREY & David J. COX, *Policing the Factory. Theft, Private Policing and the Law in Modern England*, London-New York, 2013; and Paul JENNINGS, “Policing public houses in Victorian England”, *Law, Crime and History*, 3-1 (2013), 52-75.

If the prevention of conflict and crime means an approach to the social problems of the individual and of the communities with which it is intended to anticipate and avoid transgressions of the legal-political order, in the repressive manifestation, a posteriori, of administrative action (including justice) or government of the public power, legal-criminal forms continue to require, with the same broad approach to transgression and deviation, as in Sarah AUSPERT & Isabelle PARMENTIER & Xavier ROUSSEAUX (ed.), *Buveurs, voleuses, Fools et prisonniers à Namur au XVIIIe siècle. Déviance, justice et régulation sociale au temps des Lumières*, Namur, 2012, the development of the classical study of the sanction of unlawfulness, but in the idea, already expressed, of a global and multifaceted understanding of the sanction of the illicit (crime-crime-damage sequence, civil responsibility and criminal responsibility), as can be seen pointed out in Marco CAVINA, “‘De Praeda Militari.’ Geometría de la ilicitud del saqueo en la cultura jurídica entre la Edad Media y la Moderna”, *Historia et Ius*, 6 (2014), 1-11, which approximate, for the identification of a single “ratio”, the historical interpretation of various branches of law, that is, of civil, administrative, criminal, etc. and of their respective sanctions or penalties (corporal, infamous, economic, depriving of liberty...), in the typological variety that Marie-Amélie BOURGUIGNON & Bernard DAUVEN & Xavier ROUSSEAUX (ed.), *Amender, sanctionner, punir. Histoire de la peine du Moyen Âge au XXe siècle*, Louvain-la-Neuve, 2012. Depending on the interests of the investigation, some or other sanctions will have a determined relevance, and of course there is no lack of bibliography in continuous progression, notably in the field of legal-criminal history, on the types of penalties and on the forms of execution; Examples include the works

of Michel PORRET, “La cicatrice pénale. Doctrine, pratiques et critique de la marque d’infamie”, *Sens-Dessous*, 10-1 (2012), 47-63; “La peine de mort: un garde-fou du contrat social”, *Choisir*, 630 (2012), 29-32; “Maintenir mais modérer la mort comme peine au temps des Lumières”, in F. Chauvaud (dir.), *Le droit de punir du siècle des Lumières à nos jours*, Rennes, 2012, 27-40; Lourdes AMIGO VÁZQUEZ, “La Justicia en escena. Ejecuciones públicas en el Valladolid del Antiguo Régimen”, in A. Jiménez Estrella & J. J. Lozano Navarro (ed.), *Actas de la XI Reunión Científica de la Fundación Española de Historia Moderna. Comunicaciones*, Granada, 2012, II, 11-23; Emmanuelle BURGAUD, “La castration en Droit pénal au XIXe siècle”, *Revue Historique de Droit Français et Etranger*, 4 (2013), 639-657; and Peter KING & Richard WARD, “Rethinking the Bloody Code in the eighteenth-century Britain: capital punishment at the center and on the periphery”, *Past & Present*, 228 (2015), 159–205.

The presuppositions of the historical research on the doctrinal considerations of the sanction of the illicit are not exclusively legal, or they are legal but without disregarding, as in this Report it is postulated, in an internal legal interdisciplinarity, together with the technical aspects derived from the application of legal penalties and the consideration of judicial discretion, those related to the legal philosophy of punitive justice, without prejudice to the fact that this conjunction is projected sociologically in the disciplines (here in its own time but also with a historical projection that is relevant) of criminology and victimology. Legal technique, legal philosophy and criminology are shared in the historical studies on punishment (legal or discretionary) by Francesco BERTI, “Garanzie processuali e diritti dell'uomo nella dottrina della pena di Gaetano Filangieri”, *Historia et Ius*, 2 (2012), 1-29; Susana GARCÍA LEÓN, *La justicia en la Nueva España. Criminalidad y arbitrio judicial en la Mixteca alta (siglos XVII y XVIII)*, Madrid, 2012; José SÁNCHEZ-ARCILLA BERNAL (investigador principal), *El arbitrio judicial en el Antiguo Régimen. España e Indias, siglos XVI-XVIII*, Madrid, Dykinson, 2012; Erik-Jan Maria F. C. BROERS, *Geschiedenis van het straf- en schadevergoedingsrecht. Een inleiding*, Apeldoorn-Antwerpen, 2012; Luigi DELIA & Gabrielle RADICA (dir.), *Penser la peine à l'âge des Lumières*, Bordeaux, Presses Universitaires de Bordeaux, 2012; Gianluca DIONI, “‘Non esse facienda mala, ut inde eveniant bona’: Christian Thomasius’s criticism of torture”, *Heliopolis*, 10-1 (2012), 43-54; “The criticism of Christian Thomasius to the inquisitorial process”, *Heliopolis*, 12-1 (2014), 37-81; Pedro ORTEGO GIL, “La conmutación de penas: una revisión histórica”, en *Initium*, 17 (2012), 263-344; “El arbitrio de los jueces inferiores: su alcance y limitaciones”, en J. Sánchez-Arcilla Bernal (coord.), *El arbitrio judicial en el Antiguo Régimen. (España e Indias, siglos XVI- XVIII)*, Madrid, 2013, 133-219; *Entre jueces y reos. Las postrimerías del Derecho penal absolutista*, Madrid, 2015; Michele PIFFERI, “Individualization of punishment and the rule of Law: reshaping legality in the United States and Europe between the 19th and 20th century”, *The American Journal of Legal History*, 52-3 (2012), 325-376; Michel PORRET & Vicent FONTANA & Ludovic MAUGUÉ (ed.), *Bois, fers, papiers de justice. Histoire matérielle du droit de punir*, Chêne-Bourg, 2012; Sébastien DHALLUIN, “Control of the arbitrium of the criminal judge of the 'Parliament of Flanders' by Royal Legislation”, in G. Martyn & A. Musson & H. Pihlajamäki (ed.), *From the Judge's 'Arbitrium' to the Legality Principle. Legislation as a Source of Law in Criminal Trials*, Berlin, Duncker & Humblot, 2013, 95-108; Georges MARTYN & Anthony MUSSON & Heikki PIHLAJAMÄKI (ed.), *From the Judge's 'Arbitrium' to the Legality Principle: Legislation as a Source of Law in Criminal Trials*, Berlin, 2013; Alessandro MONTEVERDE SÁNCHEZ, “La pena de muerte y sus aplicaciones técnicas en el pensamiento de Jeremías Bentham”, *Revista de Estudios Histórico-Jurídicos*, 35 (2013), 707-725; Marc ORTOLANI & Stéphanie BLOT-MACCAGNAN, “La comb dans les royales constitutions du royaume de Piémont-Sardaigne au XVIIIe siècle”, *Bollettino Storico-Bibliografico Subalpino*, 111-2 (2013), 651-674; *L'individualizzazione della pena. Difesa sociale e crisi della legalità penale tra Otto e Novecento*, Milano, Giuffrè, 2013; *Reinventing Punishment. A Comparative History of Criminology and Penology in the 19th*

and 20th Century, Oxford, Oxford University Press, 2016; Oliver LANDOLT, “Räumliche Verbannungen als Vorform der modernen Freiheitsstrafe? Überlegungen anhand von Beispielen aus dem Gebiet der Schweiz im Spätmittelalter und in der Frühen Neuzeit”, *Traverse*, 21-1 (2014), 39-47; Isabel RAMOS VÁZQUEZ, “La individualización judicial de la pena en la primera codificación francesa y española”, *Anuario de Historia del Derecho Español*, 84 (2014), 327-363; Rosamaria ALIBRANDI, “The ‘fervid immaginazione’ di Beccaria. Punitive law and legitimate use of torture in a late Sicilian treatise Settecento in materia criminale”, *Cuadernos de Historia del Derecho*, 22 (2015), 257-276; Michel PORRET & Elisabeth SALVI (dir.), *Cesare Beccaria. La controversie pénale, XVIIIe-XXIe siècle*, Rennes, Presses Universitaires de Rennes, 2015.

As we have repeated, the fact that the transgression of the legal offense, which deserves a certain sanction from the public administration, is historically contemplated in the social breeding ground that generates conflicts, brings the consequence of phenomena that provoke undoubted social and legal response to their commission, but also that of others who, by transforming themselves to the rhythm of social changes of mentality and values, find themselves in an axiological impasse, and generate ambiguous legal consequences, or the alteration of the legal consequences in that bridge that links the regulations with the judicial guidelines for the application of the norms and the establishment of its own judicial use, attentive to the specific spatial and temporal circumstances, and to the position that, even from constitutive criteria of the legal order, occupies the individual who faces the regulations cogent. In addition to what this implies in terms of the manifestation of non-legal or non-legal behaviors, beyond the unlawful ones, its alternative order to the prevailing one gives rise to the promotion of self-regulation mechanisms that sometimes the official system itself contemplates (acts of conciliation, transactions, arbitrations and settlements, or other modes of mediation), but not always. In addition, the fact that social circumstances present justifying causes, causal explanations and reasons for the mitigation of repression, empowers that the repressive legal system of conflicts can promote and welcome, in a route of depenalization if not decriminalization, all Sort of channels, both between the parties in conflict and with respect to the State, which favor the resolution of conflictive situations, between restitution, composition and reparation of the damages suffered (again in the plurality of civil or commercial spheres, administrative and criminal), and political healing, despite its extra-legal overtones, which seeks remission or condonation, forgiveness or pardon.

It is very significant, from this point of view, that the advancement of the history of criminality has often occurred from the study of documentary sources that reflect the practice of grace, mercy, equity and justice. forgiveness in the administration of justice, as if in this validating perspective it could be traced not only a certain statistic of the most recurrent practical forms of crime or unlawfulness in general, but also the conditions experienced by the objective and subjective conditions of crime, which can excuse the rigor of the law. On mercy, clemency, forgiveness, we have Reynald ABAD, *La Grâce du roi. Les lettres de clémence de la Grande Chancellerie au XVIIIe siècle*, Paris, 2011; Marie-Thérèse AVON-SOLETTI, “La question du droit de grace dans la Corse constitutionnelle au XVIIIème siècle”, in J.-M. Carbasse & M. Ferret-Lesn  (ed.), *Doctrine et pratique p nales en Europe. Journ es Internationales de la Soci t  d'Histoire du Droit, Montpellier 26-29 May 2011*, Montpellier, 2011, I, 407-426; Roberto Jos  GONZ LEZ ZALACA N, “El perd n real en Castilla: una fuente privilegiada para el estudio de la criminalidad y la conflictividad social a fines de la Edad Media. Primera parte: estudio”, *Cl o & Crimen*, 8 (2011), 290-352; Karl H RTER & Cecilia NUBOLA (a cura di), *Grazia e giustizia. Figure della clemenza fra late medieval ed et  contemporanea. Atti della LI Settimana di Studio ‘I forgive, thank you, giustizia: figure della clemenza fra late mediaevo ed et  contemporanea’*,

Trento, 21-24 October 2008, Bologna, 2011; Randall MARTIN, “English child-murder news and the culture of equity,” in A. E. Leonard – K. L. Nelson (ed.), *Masculinities, Childhood, Violence. Attending to Early Modern Women and Men. Proceedings of the 2006 Symposium*, Newark, 2011, 267-281; Richard MCMAHON, “‘Let the Law take its course’: punishment and the exercise of the prerogative of mercy in pre-famine and famine Ireland”, in M. Brown-S. P. Donlan (ed.), *The Laws and the Other Legalities of Ireland, 1689-1850*, Farnham, 2011, 133-164; Bernard DAUVEN & Xavier ROUSSEAUX, *Préférer miséricorde à rigueur de justice. Pratiques de la grâce (XIIIe-XVIIe siècles)*, Louvain-la-Neuve, 2012; Olivier CAPOROSSO, “Dire le droit au roi. I warned you of the procureur du roi dans les procédures de sue de pardon royal du XVIIe siècle”, *Clío & Crimen*, 10 (2013), 83-94; Adriano PROSPERI, *Delitto e pardon. La pena di morte nell'orizzonte mentale dell'Europa Cristiana, XIV-XVIII secolo*, Torino, 2013; Frédéric POHU, *Le pardon en Bretagne. Justice, violence et société en Bretagne au temps des guerres de religion*, Angers, 2014; Paulo Drumond BRAGA, “Criminalidade feminina e perdão reggio em Portugal na Epoca Moderna”, in I. M. R. M. D. Braga-M. Torremocha Hernández (coord.), *As mulheres perante os tribunais do Antigo Regime na Península Ibérica*, Coimbra, 2015, 111-118. On mediation, Michelangelo MARCARELLI, “Il terzo nei riti di mediazione e di pace nel friuli del Cinquecento”, *Acta Histriae*, 22-2 (2014), 225-240. While bearing in mind that these issues of exemption or dispensation from legal liability should not only be examined in a vertical downward relationship, but also in an upward relationship, as happens, particularly in contemporary times, with social movements advocating legal change -political, of which the most representative example may be abolitionism, studied by James GREGORY, *Victorians against the Gallows. Capital Punishment and the Abolitionist Movement in Nineteenth Century Britain*, London, I. B. Tauris, 2011.

With these objects of analysis, criteria and approaches, the Project intends to study transgression and social conflict within the historical configuration of a theory and a practice of legal illicit, from the perspective of its prevention and control, on the one hand, and of its sanction and peaceful reparation, on the other, in the field of the legal history of Spain, between the *usus modernus Pandectarum* and the liberal State of Law, trying to understand its institutional resources and its social efficacy, in accordance with the evident structural political-legal changes in that historical period of time.

This historical theme has to be constructed taking into account first of all the axiology of the legal system imposed by the public power. The problems related to the legitimizing foundations of power and its normative channels (legislative, administrative, judicial, contractual ...) of protective and punitive manifestation, self or heteroregulatory, come into play here, as a way of facing social conflicts. In this sense, it is worth mentioning first the work of Floriana COLAO & Luigi LACCHÈ & Claudia STORTI (a cura di), *Giustizia penale e politica in Italia tra Otto e Novecento. Modelli ed esperienze tra integrazione e conflitto*, Milano, 2015; as well as the patterns of ends and principles that adopts Paolo RONDINI, “Gli scopi ei principi del processo penale: dagli ‘Zweck und Principien’ di Franz von Zeiller alle ‘Prinzipienfragen’ di Friedrich von Savigny”, *Italian Review of Legal History*, 1 (2015), 1-18. Other titles allow us to appreciate how the historical description of political power can be approached from the understanding of the sociopolitical phenomena that question or confront its sources, such as Alejandro FORERO CUÉLLAR, “L’abolizione dello Stato as soluzione al problema della criminalità: lineamenti di anarchic theory nella Spagna a cavallo tra XIX e XX secolo”, *Studi sulla Questione Criminale*, 6-2 (2011), 117-128; John Robert D. FALCONER, *Crime and Community in Reformation Scotland. Negotiating Power in a Burgh Society*, London, 2012; and Angela DE BENEDICTIS & Karl HÄRTER (Hg), *Revoluten und politische Verbrechen zwischen dem 12. und 19. Jahrhundert. Rechtliche Reaktionen und juristisch-politische Diskurse*, Frankfurt am Main, 2013. Other authors delve into this problem from a deepening

of the margins of legality or arbitration of modern and contemporary justice, such as Luigi LACCHÈ & Monica STRONATI (ed.), *Beyond the Statute Law. The 'Gray' Government of Criminal Justice Systems. History and Theory in the Modern Age*, Macerata, 2011; António Manuel HESPANHA, "The pale shade of legality: the resilience of arbitrary criminal 'iudicia' after the era of revolutions - the Portuguese case", in G. Martyn & A. Musson & H. Pihlajamäki (ed.), *From the Judge's 'Arbitrium' to the Legality Principle. Legislation as a Source of Law in Criminal Trials*, Berlin, 2013, 207-228; and Marju LUTS-SOOTAK & Marin SEDMAN, "Ambivalences of the legality principle in the penal Law of the Baltic provinces in the Russian Empire (1710-1917)", in G. Martyn & A. Musson & H. Pihlajamäki (ed.), *From the Judge's 'Arbitrium' to the Legality Principle. Legislation as a Source of Law in Criminal Trials*, Berlin, 2013, 317-350. Reflection connects justice with the world of violence in Bruno POMARA SAVERINO, "Tra violenze e giustizie. La società del mondo mediterraneo occidentale e cattolico in antico regime", *Il Palindromo*, 3 (2011), 83-110.

Logically, along with the problem of the legitimation of power that orders the prevention, repression and resolution of the conflict, a historical-legal analysis has to delve into the material decisions established in the regulations, in a broad sense, which, as is known, cannot be interpreted in an isolated way, but depending on the context, but without this in turn ignoring the patterns of composition and argumentation, around the problem of illegality and unlawfulness, of the operative references of the law, the use or custom, procedural acts and legal doctrine. Here there are also axiological issues influenced by the fundamental principles of the legal system, so that the study of legal provisions can be specified in specific normative acts but also in the general conception of their classification, strength and position in the legal system, as they do Marco Paolo GERI, *Dal textus all'ordine sanzionatorio. La classificazione dei crimini tra technical giuridica e logica di edificazione istituzionale*, Pisa, 2011; Sergio Rodolfo NÚÑEZ Y RUIZ-DÍAZ, "Criterio de aplicación de normas penales en el Derecho indiano (siglos XVI y XVII)", *Revista Cruz de Sur*, 2 (2012), 93-121, and Heikki PIHLAJAMÄKI, "Legalism before the legality principle? Royal statutes and Early Modern Swedish Criminal Law", in G. Martyn & A. Musson & H. Pihlajamäki (ed.), *From the Judge's 'Arbitrium' to the Legality Principle. Legislation as a Source of Law in Criminal Trials*, Berlin, 2013, 169-188. In addition, in contemporary times, the understanding of the legal provisions requires an assimilation of the transformations that the path that leads from the predominance of compilations as forms of organization or protection of the Law to the formulation of codes as unitary and articulated laws conceived as a manifestation of the principle of legal equality; Gabriela COBO DEL ROSAL PÉREZ, "Los mecanismos de creación normativa en la España del siglo XIX a través de la codificación penal", *Anuario de Historia del Derecho Español*, 81 (2011), 921-969; Xavier MARTIN, "De Beccaria et Voltaire aux codes criminels de 1808 et 1810", *Revue Historique de Droit Français et Etranger*, 89-3 (2011), 377-405; Gabriela COBO DEL ROSAL PÉREZ & Jesús-María NAVALPOTRO SÁNCHEZ-PEINADO, "El proceso de formación de los códigos entre dos poderes expansivos legislativo y ejecutivo: codificación penal y principio de legalidad en los inicios del constitucionalismo español (1812-1843)", *e-SLegal History Review*, 14 (2012); Juan BARÓ PAZOS, "El derecho penal español en el vacío entre dos códigos (1822-1848)", *Anuario de Historia del Derecho Español*, 83 (2013), 105-138; Daniele EDIGATI, *Prima della Leopoldina. La giustizia criminale toscana tra prassi e riforme legislative nel XVIII secolo*, Napoli, Jovene, 2011; *Il Codice mancato. Tentativi di codificazione della procedura e riforma della giustizia criminale nella Toscana ottocentesca*, Rome, 2013; Margarita BARRAL MARTÍNEZ, "La reforma del Código Penal tras la proclamación de la Constitución de 1869", en P. Oliver Olmo & J. C. Urda Lozano (coord.), *La prisión y las instituciones punitivas en la investigación histórica*, Cuenca, 2014, 295-309; Mario RIBERI, "Il contributo dei Tribunali Piemontesi alla codificazione penale napoleonica", *Rivista di Storia del Diritto Italiano*, 88 (2015), 227-302; and Stefano

SOLIMANO, “‘L’eccezione Permanente.’ Spunti per una riflessione sui caratteri costitutivi dell’ordinamento penale napoleonico”, *Italian Review of Legal History*, 1 (2015), 1-35. Regarding the problem of use and custom, undoubtedly affected in the area of social conflict to which legal repression responds, we can quote Céline REGNARD, “La fabrique du crime. Les attentats aux mœurs devant la justice (France-Var, XIXe siècle)”, *Rives Méditerranéennes*, 40 (2011), 87-106; and Éva GUILLOREL, “La mémoire du crime. Complaintes de tradition orale, justice et société dans la Bretagne d’Ancien Régime”, *Criminocorpus. Musique et Justice. Portraits d’accusés et figures de criminels en musique* (2014). The legal doctrine is scrutinized in contrast to the legal practice by Jean-Marie CARBASSE & Maité FERRET-LESNÉ, *Doctrine et pratique pénales en Europe. Journées Internationales de la Société d’Histoire du Droit, Montpellier May 26-29 2011*, Montpellier, 2012.

In addition to legal, customary and doctrinal sources, criminal legal history has paid significant attention to the need to integrate the study of civil and criminal offenses, as defended in this Report, to civil acts that constitute sources of criminality, as Jessica CARMONA GUTIÉRREZ, “Los protocolos notariales como fuente para el estudio de la violencia y la conflictividad social en el período moderno: cartas de poder, apartamentos de querellas y fianzas”, *Clío & Crimen*, 10 (2013), 189-206. Even more extensive is the bibliography dedicated to the study of procedural acts, otherwise always considered relevant legal sources in the social history of crime: Alejandro AGÜERO NAZAR, “El testimonio procesal y la administración de justicia penal en la periferia de la monarquía católica, siglos XVII y XVIII”, *Acta Histriae*, 19/1-2 (2011), 43-60; Jorge Antonio CATALÁ SANZ & Sergio URZAINQUI SÁNCHEZ, “Delincuencia y orden público en la Valencia de Felipe V. Una visión general y dos aproximaciones selectivas a partir de una fuente poco conocida: los registros de la Real Audiencia borbónica”, *Estudis. Revista de Historia Moderna*, 37 (2011), 253-272; Marco N. MILETTI, “Il nemico capitale. The rejection of the testimony nelle pratiche d’Età Moderna”, *Acta Histriae*, 19 / 1-2 (2011), 105-126; Javier RUIZ ASTIZ, “Fuentes para el estudio de la violencia colectiva en la Navarra moderna: el valor de la documentación procesal”, *Studia Historica. Historia Moderna*, 33 (2011), 261-287; Alicia DUÑAITURRIA LAGUARDA, “La criminalidad de Madrid en los Libros de Acuerdos”, *Clío & Crimen*, 10 (2013), 277-295; María del Pilar ESTEVES SANTAMARÍA & Susana GARCÍA LEÓN, “Las reales ejecutorias como fuente para el estudio de la historia”, *Clío & Crimen*, 10 (2013), 373-390; Inés GÓMEZ GONZÁLEZ, “Las visitas a los tribunales reales: fuentes para el estudio de la conflictividad y la violencia”, *Les Cahiers de Framespa*, 12 (2013); Mariana MORANCHEL POCATERRA, “Los libros de condenaciones del Consejo de Indias”, *Clío & Crimen*, 10 (2013), 207-224; Pedro ORTEGO GIL, “Sentencias criminales en Castilla: entre jueces y abogados”, *Clío & Crimen*, 10 (2013), 359-372; Javier RUIZ ASTIZ, “‘Haciendo alarde y mofa’: la documentación procesal como herramienta para reconstruir las actitudes violentas en la Navarra Moderna”, *Clío & Crimen*, 10 (2013), 337-358; Olivier CAPOROSSI, “Témoins et témoignages dans les procédures pénales de Castille au XVIIIe siècle”, in J.-P. Allinne & C. Gauvard & J.-P. Jean (dir.), *Le peuple en justice*, Paris, 2014, 93-102; Alan CUSACK, “From exculpatory to inculpatory justice: a history of due process in the adversarial trial”, *Law, Crime and History*, 5-2 (2015), 1-28; Isabelle ARNAL-CORTHIER, “Une source d’argumentation dans l’appel de grand criminel à la fin du XVIIIe siècle: les lettres de cassation presented au parlement de Toulouse”, *Clío @ Themis*, 8 (2015), 1-17; Andrea MASSIRONI, “L’avvocato del diavolo. Difesa e difensore nel trial criminal austriaco del Settecento”, *Italian Review of Legal History*, 1 (2015), 1-21; and Alison ADAM (ed.), *Crime and the Construction of Forensic Objectivity from 1850*, Cham, 2020. Pedro ORTEGO GIL, *Estadística y control de la actividad judicial durante el siglo XIX*, Madrid, 2016, and Chris VICKERS & Nicolas L. ZIEBARTH, “Economic development and the demographics of criminals in Victorian England”, *Journal of Law and Economics*, 59-1 (2016), 1-39.

Legal, business or procedural legal sources are direct or main sources, as is often repeated, in legal history, and therefore also in legal-criminal history, but the approaches of this Report, attentive to the connection of criminal sources with other preventions and sanctions of unlawfulness in parallel legal orders (administrative, civil or commercial), and also to the integration of the results of social history in its dedication to the analysis of conflict, violence and transgression, oblige to expand the sources of knowledge and incorporating extra-legal historical sources, insofar as their pertinent and non-anachronistic connection can be properly grounded, and insofar as they can be articulated without antinomies, harmonically, the languages (technical and common) of one and other types of sources. Depending on the specific topics selected by the researchers, the relevance of one class or another of extra-legal sources will be different. In principle, there is no reason to discard even their communion. Thus, the philosophical sources allow us to understand the foundations of the repressive power and its criteria of legitimation in the emanation of the legal and procedural normative acts; religious sources explain the previous criteria of legitimation of power but also the possibilities of prevention and reparation adapted to the peculiarities of the patterns of social thought spread among individuals; anthropological and sociological/criminological sources allow us to delve into the causes and ends of social conflicts, to locate the roots and conditions of their explosion but also the most appropriate ways to resolve such conflicts; literary and journalistic sources allow access to currents of public opinion (object outlined in study of Bram DELBECKE, “Le jugement de l'opinion publique et la répression des provocations collectives non suivies d'effet en Belgique (1831-1914)”, *Tijdschrift voor Rechtsgeschiedenis*, 81, 1-2 (2013), 219-246); economic sources explain the limits of certain criminal policies, if not the conditions in which the crime phenomenon is generated; medical sources complement the doctrinal disquisitions and judicial problems regarding certain crimes and penalties from a procedural point of view, and specifically regarding the *probanza* system (homicide, injury, abduction with force...). But, always, according to our own interdisciplinarity criterion, the integration of elements has to occur from legal history, to overcome the risk of discontinuous amalgam of ideas without congruent reasons and to achieve harmonious results that grant a true depth enriched to the properly legal interpretation. This is not an effort that does not have a bibliography that has already experienced this epistemological opening in its richness and limits.

Maintaining the criterion that bibliographic references are limited to the last decade, the integration of literary sources in historical-legal research can be verified in Mónica BOLUFER PERUGA & Juan GOMIS, “Delitos ‘privados’ y literatura popular en los orígenes de la opinión pública: a propósito del crimen de Castillo”, *Estudis. Revista de Historia Moderna*, 37 (2011), 217-233; Dominique KALIFA, “Enquête judiciaire, littérature et imaginaire social au XIXe siècle”, *Cuadernos de Historia Contemporánea*, 33 (2011), 37-47; Ted BERGMAN, “Transversality, criminality, and the gypsy in Spanish baroque teatro breve”, *Journal of Spanish Cultural Studies*, 13-3 (2012), 276-291; Boris BERNABE, “De la vengeance à la justice dans Le Comte de Monte-Cristo (1845-1846) and Mathias Sandorf (1885)”, *Histoire de la Justice*, 23 (2013), 97-119; Kate BATES, “Empathy or entertainment? The form and function of violent crime narratives in the early-nineteenth century broadsides”, *Law, Crime and History*, 4-2 (2014), 1-27; Tanu GUPTA & Ramandeep MAHAL, “The use of infanticide in English literature”, *Research Scholar. An International Refereed e-Journal of Literary Explorations*, 2-4 (2014), 112-126; Ian WARD, *Sex, Crime and Literature in Victorian England*, Oxford, 2014; Cristiano BARBIERI, “Vissuti di reato e estado di coscienza: esercizi di narratologia criminologica con Maupassant”, *Rassegna Italiana di Criminologia*, 9-1 (2015), 21-28. General historical sources (memoirs, local histories, etc.) are represented in Rosalind

WATKISS-SINGLETON, “‘Crime? No, it Wasn’t Really Crime’: Using Oral History and Memoirs to Teach Crime History”, *Law, Crime and History*, 4-1 (2014), 62-82.

If instead of imaginative literature in general we concentrate our attention on the periodical press as a source for historical-legal knowledge, it is worth mentioning Sebastien SOULIER, *L'actualité criminelle dans la presse du Puy-de-Dôme from 1852 to 1914. Etude de la chronique judiciaire*, Clermont-Ferrand, Université Blaise-Pascal, 2011; Donatella PALLOTTI, “‘A most detestable crime. ’Representations of rape in the popular press of early modern England”, *Lingue e Letterature d'Oriente e d'Occidente*, 1-1 (2012), 287-302; Francesco ROTONDO, “Angelo Zuccarelli and the rivist ‘L’Anomalo’. Una riflessione sull’antropologia criminale di fine Ottocento a Napoli”, in L. Lacchè & M. Stronati (a cura di), *A tribuna per le scienze criminali. The ‘culture’ of the Riviste in the criminal dibattito by Otto e Novecento*, Macerata, 2012, 191-218; “Reporting crime in the north of England eighteenth-century newspaper: a preliminary investigation”, *Crime, Histoire & Sociétés*, 16-1 (2012), 25-45; James A. SHARPE, “Reporting crime in the north of England eighteenth-century newspaper: a preliminary investigation”, *Crime, Histoire & Sociétés*, 16-1 (2012), 25-45. Garthine WALKER, “Rape, acquittal and culpability in popular crime reports in England, c. 1670-c. 1750”, *Past & Present*, 220-1 (2013), 115-142. Emily C. PAUW, *Reports of Criminality: the Aberdeen Journal and the Presentation of Crime, 1845-1850*, Guelph, 2014; and Richard M. WARD, “Print culture, moral panic, and the administration of the Law: the London crime wave of 1744”, *Crime, Histoire & Sociétés*, 16-1 (2012), 5-24; *Print Culture, Crime and Justice in 18th-Century London*, London-New York, 2014.

Titles that integrate anthropological, sociological and criminological analyzes are those of Mónica BOLUFER PERUGA, “De violentar las pasiones a educar el sentimiento: el matrimonio y la civilidad dieciochesca”, en A. Jiménez Estrella & J. J. Lozano Navarro (ed.), *Actas de la XI Reunión Científica de la Fundación Española de Historia Moderna. Comunicaciones*, Granada, 2012, II, 349-360; Ricardo CAMPOS MARÍN, *El caso Morillo. Crimen, locura y subjetividad en la España de la Restauración*, Madrid, 2012; “La construcción del sujeto peligroso en España (1880-1936). El papel de la psiquiatría y la criminología”, *Asclepio*, 65-2 (2013), 1-13; Lucia RODLER, “L’homme criminel de Cesare Lombroso: entre science et littérature”, *Criminocorpus. Histoire de la criminologie. 4. L’anthropologie criminelle in Europe* (2012); Alejandro ALAGI, *Make suffer. Images of man and society in criminal law*, Buenos Aires, 2013; Pierpaolo MARTUCCI, “All’inizio era il male: biological determinism and destiny nella criminologia di Cesare Lombroso”, *Rassegna Italiana di Criminologia*, 7-1 (2013), 52-61; Melissa A. HAYES, “Sex in the witness stand. Erotic sensationalism, voyeurism, sexual boasting, and bawdy humor in nineteenth-century Illinois Courts”, *Law and History Review*, 32-1 (2014), 149-202; and Michele PIFFERI, “Oltre Beccaria? Le proposte della criminologia tra Otto e Novecento”, in G. Chiodi & L. Garlati (a cura di), *Dialogging with Beccaria. Le stagioni del processo penale italiano*, Torino, 2015, 107-138.

In some specific study of the previous orientation, like that of Emilia MUSUMECI, *Cesare Lombroso e le neuroscienze: a mancato parricide. Devianza, libero arbitrio, imputabilità tra antiche chimere ed inediti scenari*, Milano, 2012, the link between criminology and medicine is appreciated. On the medical aspects of the legal-criminal system, see Julie DOYON, “Les enjeux medico-judiciaires de la folie parricide au XVIIIe siècle”, *Crime, Histoire & Sociétés*, 15-1 (2011), 5-27; Michel PORRET, “Indices et circonstances du viol: the medical-legal sham of sexual crimes in the judicial practice at the times of Lumières”, in F. Prescendi & AA Nagy (dir.), *Victimes au féminin, Chêne-Bourg*, Georg, 2011, 101-120; Alexandre LUNEL, “The loi du 30 novembre 1892 et le delit d'exercice illégal de la médecine in France”, *Revue Historique de Droit Français et Etranger*, 1 (2012), 115-134; Paolo MARCHETTI, “‘Perchance to dream.

'Personality modifications and criminal liability: a nineteenth-century debate between Psychiatry and Law', *Historia et Ius*, 4 (2013), 1-12; Francesco ROTONDO, "Diritto penale e malattia: l'epilessia al tempo di Lombroso", *Historia et Ius*, 4 (2013), 1-12; Fabrice BRANDLI & Michel PORRET (ed.), *Les corps meurtris. Investigations judiciaires et expertises medico-legal au XVIIIe siècle*, Rennes, 2014; Sara BEAM, "Adultère, indices médicaux et recul de la torture à Genève (XVIIe siècle)", *Genre & Histoire*, 16 (2015), 1-18; José Ramón BERTOMEU SÁNCHEZ, "El esqueleto de la viuda Houet: frenología y medicina legal en Francia durante la década de 1830", *Criminocorpus. Varia* (2015); Pierpaolo MARTUCCI & Rita CORSA, "Malattia mentale e pericolosità. Alle origini di una categoria criminologica e culturale", *Polit Psychiatry on line Italy*, February 16 (2015), 1-14; and Katherine D. WATSON, *Medicine and Justice. Medico-Legal Practice in England and Wales, 1700-1914*, London, 2020. Medicine and police come together in Kelly-Ann COUZENS, "The police surgeon, medico-legal networks and criminal investigation in Victorian Scotland", in A. Adam (ed.), *Crime and the Construction of Forensic Objectivity from 1850*, Cham, 2020, pp. 125-159; on forensic science, Laura M. SELLERS & Katherine D. WATSON, "The construction of forensic knowledge in Victorian Yorkshire: Dr Thomas Scattergood and his casebooks, 1856-1897", in A. Adam (ed.), *Crime and the Construction of Forensic Objectivity from 1850*, Cham, 2020, pp. 189-210. Specifically, the epidemiological problem, so prominent today after the health crisis of the coronavirus COVID-19, can be studied, multifaceted, from the legal-criminal history, as shown by the model offered by Fleur BEAUVIEUX, "Justice et répression de criminalité in times of plague. L'exemple de l'épidémie marseillaise de 1720-1722", *Criminocorpus. Varia* (2014).

Finally, the problem of the relationship between religion and Law has been tackled by Heikki PIHLAJAMÄKI, "Strafrecht ohne Religion? Ein Blick auf Protestantische Länder in der frühen Neuzeit", in N. Jansen-P. Oestmann (hg.), *Rechtsgeschichte heute. Religion und Politik in der Geschichte des Rechts*, Tübingen, 2014, 131-144.

On this extensive catalog of legal sources (laws in a broad sense, administrative regulations, judicial decisions, contractual instruments, doctrinal treaties, etc.) and extra-legal sources (literary, medical, religious, etc.), the historical analysis of the crime must be developed, in its genesis and juridification, that is, the set of transgressions, conflicts, contraventions and crimes, both in the consideration of the types definitively fixed in the modern and contemporary Ages, as in the assessment of pre-types or proto-types in the trance of their technical training, for example in response to new social perceptions of atrocity. It is, therefore, to outline a legal technique understood in its evolution to the rhythm of the novelty or mutation of unlawful social tensions. The general technical-legal issues related to crime studied lately are, above all, the attempt, participation and criminal capacity: Ubaldo GIULIANI-BALESTRINO, "Gli aspetti normativi del delitto tentato specie nel pensiero del Filangeri", *Indice Penale*, 15-2 (2012), 647-673; Michele PIFFERI, "Il mandatum nella criminalistica del Cinquecento. Finzioni argomentative e logiche punitive", *Historia et Ius*, 1 (2012), 1-18; Rosalba SORICE, "Regulae in aedificando. The Constitutio 'Asperitatem' and il pensiero giuridico meridionale sul tentativo nei secoli XIII-XVI", *Historia et Ius*, 3 (2013), 1-14; Pedro ORTEGO GIL, "Puesto en ejecución. Notas históricas sobre conato y tentativa", *Initium*, 19 (2014), 421-523; and Claudio POVOLO, *Furore. Elaborazione di un'emozione nella seconda metà del Cinquecento*, Sommacampagna, Closures, 2015. On civil liability derived from crime, Manuel Ángel BERMEJO CASTRILLO, "Civil liability in the criminal code: a Spanish peculiarity", in A. Janssen & H. Schulte-Nölke (ed.), *Researches in European Private Law and Beyond. Contributions in Honor of Reiner Schulze's Seventieth Birthday*, Baden-Baden, 2020, pp. 353-382. The issue of legal time applied to the specificity of the criminal legal system has not been forgotten either, and is the subject of Ivana MRĐEN & Ana

PROHASKA & Nenad Vekarić, “The rhythm of crime: annual and monthly distribution of crime in the Dubrovnik Republic in the eighteenth century”, *Dubrovnik Annals*, 17 (2013), 69-113; Ezequiel BORGOGNONI, “El tiempo del delito en las ciudades castellanas a fines de la Edad Media”, *En la España Medieval*, 37 (2014), 223-246; and François PLOUX, “Rumeurs et expériences collectives de la discontinuité temporelle (1814-1815)?”, *Revue d'Histoire du XIXe Siècle*, 49-2 (2014), 21-35.

It would be impossible to register here all the bibliographical contributions on the crimes in particular. We will try to prove at least, however difficult, the knowledge of current bibliography, since the classic titles are understood to be known.

The recent bibliography on the crime of lese majesté or the political crime or against public order belongs to Angela SANTANGELO CORDANI, “Mulier-striga- I trattati sulla stregoneria tra Quattro e Cinquecento: la Lucerna inquisitorum di Bernardo Rategno da Como”, *Rivista Internazionale di Diritto Comune*, 22 (2011), 117-140; Davide DRAGO, *Il banditismo e l'amministrazione della giustizia in Sicilia after the end of the Middle Ages and the Prima Età Moderna*, Venezia, 2012; Marie HOULLEMARE, “Des fers à l'évasion. Les rebelles dans les prisons royales à l'époque moderne”, *Criminocorpus. Les rebelles face à la justice* (2014), 1-13; Margarette LINCOLN, *British Pirates and Society, 1680-1730*, Ashgate, Farnham, 2014; Lionel DORTHE, *Brigands et criminels d'habitude. Justice et repression à Lausanne, 1475-1550*, Lausanne, 2015; Claudio C. RIZZUTO, “El problema de las relaciones entre herejía y rebelión en el contexto de la revuelta comunera (Castilla, 1520-1521)”, *Tiempos Modernos*, 30 (2015), 1-30. The reverse perspective, in Patrick GILLI (dir.), *La pathologie du pouvoir: vices, crimes et délits des gouvernants. Antiquité, Moyen Âge, époque moderne*, Leiden-Boston, 2016.

Crimes against life (homicide, patricide, infanticide) have been studied by Amber ARAGON-YOSHIDA, *Lustmord and Loving the Other: a History of Sexual Murder in Modern Germany and Austria (1873-1932)*, Saint Louis, 2011; Gilles MALANDAIN, *L'introuvable plot. Attentat, inquiry et rumeur dans la France de la Restauration*, Paris, 2011; Caterina PASSALACQUA, “L'aborto criminoso nella penal dottrina tra Otto e Novecento”, *Teoria e Storia del Diritto Privato. Rivista Internazionale Online*, 4 (2011), 1-272; Rosalba SORICE, “‘Impune occidetur, licite occidetur’? La non punibilità dell'omicidio nella dottrina medievale e Moderno”, in M. Schmoeckel & O. Condorelli & F. Roumy (hg.), *Der Einfluss der Kanonistik auf die europäische Rechtskultur*, Köln, 2012, III, 99-106; Sylvie LAPALUS, “Le parricide comme exacerbation des violences familiales au XIXe siècle”, *Criminocorpus. Varia* (2013), 1-11; Christina FORST, “Creators, destroyers, and a judge: infanticide and puerperal insanity in Victorian English Courts”, *Historical Perspectives*, 17 (2012), 1-23; Margaret B. LEWIS, *Infanticide in Early Modern Germany. The Experience of Augsburg Memmingen, Ulm, and Nördlingen, 1500-1800*, Virginia, 2012; *Infanticide and Abortion in Early Modern Germany*, London, 2015; Matthew H. LOCKWOOD, “From treason to homicide: changing conceptions of the Law of Petty Treason in early modern England”, *The Journal of Legal History* 34-1 (2013), 31-49; Lissell QUIROZ-PÉREZ, “Une mère ne tue pas ses enfants de ella. Les procès pour infanticide dans le Pérou du XIXe siècle”, in L. Faggion-C. Regina-B. Ribémont (dir.), *La culture judiciaire. Discours, représentations et usages de la justice du Moyen Âge à nos jours*, Dijon, 2014, 165-180; Mathieu SOULA, “Oh I montre him! La construction sociale et judiciaire du parricide in Languedoc aux XVIIe et XVIIIe siècles: accords and desaccords des représentations”, in L. Faggion & C. Regina & B. Ribémont (ed.), *La culture judiciaire. Discours, représentations et usages de la justice du Moyen Âge à nos jours*, Dijon, 2014, 431-446; Marie-Yvonne CRÉPIN, “L'homicide du conjoint en Bretagne aux XVIIIe et XIXe siècles: permanence d'un crime familial”, *Annales de Démographie Historique*, 130-2 (2015), 51-68; Karen FIORENTINO, “A homicide ordinaire? L'infanticide devant le Tribunal criminel de la Côte-

d'Or", *Revue Historique de Droit Français et Étranger*, 2 (2015), 205-244; and Nicoleta ROMAN, "L'infanticide en Valachie: lois, discours et réponse sociale (1831-1860)", *Annales de Démographie Historique*, 130-2 (2015), 103-131. Crimes against honesty have been studied by Alessio BASILICO, "Giustizia ecclesiastica e trattamento del reato di stupro. Indicazioni di ricerca dalla diocesi di Teramo (1615-1750)", *Dimensioni e Problemi della Ricerca Storica*, 14-2 (2011), 207-230; Garthine WALKER, "Everyman or a monster? The rapist in early modern England, c. 1600-1750", *History Workshop Journal*, 76-1 (2013), 5-31; Kim STEVENSON, "Outrageous Violations: Enabling Students to Interpret Nineteenth Century Newspaper Reports of Sexual Assault and Rape", *Law, Crime and History*, 4-1 (2014), 36-61; and Fernando MARTÍN PÉREZ, "Paso contra ella carnalmente e ovo su virginidad por fuerça'. Justicia Real e impunidad social en el caso de la violación a Juana la Flor (San Vicente de la Barquera, 1487-1508)", *Clío & Crimen*, 12 (2015), 125-154. Los delitos de deshonor, por Ion PAGOAGA IBIRICU, "Injurias y desórdenes públicos antiseñoriales en la Navarra del siglo XVI", *Príncipe de Viana*, 254 (2011), 99-110; and Hervé PIANT, "La justice au service des justiciables? La régulation de l'injure à l'époque moderne", *Rives Méditerranéennes*, 40-3 (2011), 67-85, and Bénédicte DECOURT HOLLENDER, "La notion de faits injurieux dans le divorce et separation de corps au XIX siècle", *Revue Historique de Droit Français et Étranger*, 3 (2012), 329-378. The crimes of falsity, by Pablo ALFARO DE LA HOZ, "Falsificación y delito monetario en la monarquía hispánica del siglo XVII", *Ab Initio*, extra 2 (2012), 155-187; Albert ESTRADA RIUS, *El desafío de la moneda falsa en la Barcelona de Felipe III (1598-1621)*, Sabadell, 2012; (coord.) *La falsificació de moneda a la Catalunya del segle XIX*, Barcelona, 2013; y Joan Marc ESTARÁN PEIX, "El delito de falsificación de moneda en los procesos de la Audiencia de Manresa (1883-1892)", en A. Estrada i Rius (coord.), *La falsificación de moneda a la Catalunya del segle XIX*, Barcelona, 2013, 69-86. Los delitos patrimoniales, por María Encarnación GÓMEZ ROJO, "Historia jurídica del incendio en la Edad Antigua y en el ordenamiento medieval castellano: implicaciones urbanísticas y medioambientales", *Revista de Estudios Histórico-Jurídicos*, 33 (2011), 321-373; Jessica CARMONA GUTIÉRREZ, "El delito en el campo: daños, hurtos, fuegos y cortes en el ámbito rural extremeño a finales del Antiguo Régimen", *Clío & Crimen. Revista del Centro de Historia del Crimen de Durango*, 11 (2014), 79-99; Susana GARCÍA LEÓN, "Los delitos contra la propiedad: el empleo inadecuado de la terminología", *Clío & Crimen*, 11 (2014), 23-38; Julie DOYON, "A crime unpunished? Le vol familial dans la jurisprudence du parlement de Paris au XVIIIe siècle", *Annales de Démographie Historique*, 130-2 (2015), 87-102; and Enrique CARBALLO GENDE, "'El hambre le impulsará': la crisis de subsistencias y el auge de delitos contra la propiedad en Galicia durante la década de 1850", *Hispania. Revista Española de Historia*, 264 (2020), pp. 169-199. And, within the crimes of germanía, the problem of the vagabond, by Agustín E. CASAGRANDE, *Los vagabundos y la justicia de Buenos Aires durante el período tardo colonial (1785-1810). Construcciones jurídicas y criminalidad*, Buenos Aires, 2012; Dolores GUILLOT ALIAGA, "¿Vagabundos o delincuentes? Estudio de la pobreza en el reino de Valencia", en R. Franch Benavent & F. Andrés Robres & R. Benítez Sánchez-Blanco (ed.), *Cambios y resistencias sociales en la Edad Moderna. Un análisis comparativo entre el centro y la periferia mediterránea de la Monarquía Hispánica*, Madrid, Sílex, 2014, 183-192.

In the interpretation of the legal or extra-legal documentation of legal transgressions and conflicts, as we have previously noted, the matching of the languages (common, technical) with which each source faces a certain problem must be taken into account. Legal semiology must therefore assume the function of an instrument of historical interpretation. Some examples in this direction are Manuel ARIZA CANALES, "La batalla del día. Violencia social y lenguaje bélico en textos de la literatura picaresca (siglos XVI-XVII)", en A. Jiménez Estrella & J. J. Lozano Navarro (ed.), *Actas de la XI Reunión Científica de la Fundación Española de Historia Moderna. Comunicaciones*, Granada, 2012, II, 300-310; Javier RUIZ ASTIZ,

La fuerza de la palabra escrita. Amenazas e injurias en la Navarra del Antiguo Régimen, Pamplona, 2012; Lorena ÁLVAREZ DELGADO, “Juegos de estrategia en los tribunales. Planteamientos tácticos entre partes litigantes a través de un proceso inquisitorial complejo del siglo XVI”, *Clío & Crimen*, 10 (2013), 471-497; “Motivaciones simbólicas y materiales en la apropiación de aves de cetrería en la temprana Edad Moderna”, *Clío & Crimen*, 11 (2014), 53-77; Iván JURADO REVALIENTE, “Cultura oral y vida cotidiana. La blasfemia en Andalucía (siglos XVI-XVII)”, *Historia Social*, 77 (2013), 3-21; Anne-Claude AMBROISE-RENDU, “Bataille de mots autour du sexe violenté: le mensonge dans la judicialisation des affaires d’attentats à la pudeur sur enfants (1832-1970)”, in L. Faggion & C. Regina & B. Ribémont (dir.), *La culture judiciaire. Discours, représentations et usages de la justice du Moyen Âge à nos jours*, Dijon, 2014, 181-198; Coral CUADRADA MAJÓ, “Historias de silencios: las palabras de las putas (siglos XV-XVI)”, *Clío & Crimen*, 12 (2015), 323-364.

It should be noted that the concern for historical semiology in the study of legal history is not strictly lexicographical. A certain bibliography prefers to incline linguistic analysis towards the apprehension of “discursive strategies”, with an evident sensitivity towards the functional value of pragmatics. Thus, María Dolores MADRID CRUZ, “Relatos y narraciones en los procesos criminales. La construcción de lo verosímil en el espacio judicial”, *Clío & Crimen*, 10 (2013), 225-243; Alessio BASILICO, “Strategies de défense des mères infanticides. Entre justice communautaire et justice d’Etat”, in L. Faggion & C. Regina & B. Ribémont (dir.), *La culture judiciaire. Discours, représentations et usages de la justice du Moyen Âge à nos jours*, Dijon, 2014, 109-122; Gwénaél MURPHY, “Les strategies de défense masculines dans les affaires de violences conjugal (France, XVIIe-XVIIIe siècles)”, *ibidem*, 23-40; and Christophe ROBERT, “‘Fille de mauvaise vie’. The strategy for the defense of sexual aggressors in Roussillon au XVIIIe siècle”, *ibidem*, 41-60.

Finally, as we have been reiterating, all the formalization that legal history contributes, insofar as it is built on the perception and interpretation of a technical language, must be contrasted with the more complex, dense and variable language of documentation in which the social conflicts are registered, objectively or subjectively. This category of social conflict, which undoubtedly projects itself to legal conflict, is otherwise enormously broad and perhaps requires a limitation, but it cannot be described a priori, because it depends on the casuistry examined in the investigations. It is enough to observe the most recent bibliography that this deliberately conflictual prism assumes to verify the delimitation of a daily conflict, a political conflict, a social conflict, a family or domestic conflict: Javier RUIZ ASTIZ, “Escenarios de la conflictividad: motines y desórdenes públicos en la Navarra del Antiguo Régimen”, *Estudios Humanísticos. Historia*, 10 (2011), 123-149; “Los instrumentos del conflicto: estudio de la violencia colectiva en la Navarra moderna”, *Estudis. Revista de Historia Moderna*, 38 (2012), 167-205; Álvaro ARAGÓN RUANO, “Relaciones y conflictividad familiares en Guipúzcoa durante la Edad Moderna”, en A. Jiménez Estrella & J. J. Lozano Navarro (ed.), *Actas de la XI Reunión Científica de la Fundación Española de Historia Moderna. Comunicaciones*, Granada, 2012, II, 276-287; Adolfo I. ARBELO GARCÍA, “Matrimonio y conflictividad en Canarias: una mirada desde el siglo XVIII”, *ibidem*, II, 288-299; Juan Manuel BARTOLOMÉ BARTOLOMÉ, “La conflictividad cotidiana y su orientación pacífica en la ciudad de León en el siglo XVIII”, *ibidem*, II, 323-334; María Ángeles GÁLVEZ RUIZ, “Desórdenes y escándalos ‘públicos y notorios’ en comunidades del México colonial”, en I. Arias de Saavedra Alías (ed.), *Vida cotidiana en la España de la Ilustración*, Granada, 2012, 397-424; “Disputas prenupciales y promesas de matrimonio incumplidas en el Juzgado Eclesiástico de Toluca”, en A. Jiménez Estrella & J. J. Lozano Navarro (ed.), *Actas de la XI Reunión Científica de la Fundación Española de Historia Moderna. Comunicaciones*, Granada, 2012, II, 437-448; François GODICHEAU, “Between histoire sociale des conflicts et histoire des

concepts: protestation et ordre public en Espagne dans le dernier tiers du XIXe siècle”, *Les Cahiers de Framespa*, 12 (2013); Juan María TERRADILLOS BASOCO (coord.), *Política criminal de ‘La Pepa’. El Derecho penal de la cotidianeidad*, Cádiz, 2012; Valérie SOTTOCASA (dir.), *Les Brigands. Criminalité et protest politique (1750-1850)*, Rennes, 2013; Dominique FEY & Lydie HERBELOT, “Les dérives d’un system: le scandale de Clairvaux in 1847”, *Criminocorpus. Varia* (2014); Umberto CECCHINATO, “Dance, contaminazione, conflict. Risse e aggressioni during i balli nelle ville rurali del Trevigiano (secoli XVI-XVII)”, *Acta Histriae*, 23-1 (2015), 29-42.

Reflection on the forms and manifestations of conflicts of all kinds leads, in a kind of vicious circle, to the problem of technical understanding of the effectiveness and mechanisms of rectification of the legal system. On the other hand, if during the present scientific proposal of the Report the terms of conflict, transgression and violence have been used, as expressions that are very close and at the same time qualifying of a similar phenomenon at its root, which reaches the greatest tension in crime. To conclude, it should be explained here that it has only been a show of respect for the terminology preferred by social and legal historiography to try to specify such a complex object of study. Just as the “history of women” has resulted in a “gender” history, the history of transgression, conceived in an abstract, legal and social dimension, has generated a bibliography defined by its analysis of the conflict, such as the one previously mentioned, but also defined, for example, by the analysis of violence, a concept of a different degree of intensity but belonging to the same world of order and axiological problems. See for example Mikel BERRAONDO PIUDO, “Distribución de los casos de violencia interpersonal en la Navarra moderna (siglos XVI-XVII)”, *Príncipe de Viana*, 72 (2011), 89-98; *La violencia interpersonal en la Navarra Moderna (siglos XVI-XVII)*, Pamplona, 2012; Samuel Kline COHN & Fabrizio RICCIARDELLI (ed.), *The Culture of Violence in Renaissance Italy. Proceedings of the International Conference, Georgetown University at Villa Le Balze, 3-4 May, 2010*, Firenze, 2012; Judith ROWBOTHAM & Marianna MURAVYEVA & David NASH (ed.), *Shame, Blame and Culpability. Crime and Violence in the Modern State*, New York, 2012; Jonathan DAVIES (ed.), *Aspects of Violence in Renaissance Europe*, Farnham, Ashgate, 2013; Pierre-Olivier CHAUMET, “Ordre public et franc-maçonnerie: l’encadrement des loges parisiennes sous le règne de Louis XV (1740-1747)”, *Revue Historique de Droit Français et Étranger*, 91-1 (2013), 153-168; Eric A. JOHNSON & Ricardo D. SALVATORE & Pieter SPIERENBURG (ed.), *Murder and Violence in Modern Latin America*, Chichester, 2013; Richard MCMAHON & Joachim EIBACH & Randolph ROTH, “Making sense of violence?: Reflections on the history of interpersonal violence in Europe”, *Crime, Histoire & Sociétés*, 17-2 (2013), 5-26; Lois S. BIBBINGS, *Binding Men. Stories About Violence and Law in Late Victorian England*, London-New York, 2014; Soenita M. GANPAT & Marieke LIEM & Joanne VAN DER LEUN & Paul NIEUWBEERTA, “The influence of criminal history on the likelihood of committing lethal versus nonlethal violence”, *Homicide Studies*, 18-2 (2014), 221-240; Antoine FOLLAIN (dir.), *Brutes ou braves gens? La violence et sa mesure (XVIe-XVIIIe siècle)*, Strasbourg, 2015; and Andrea GRANDE PASCUAL, “Violencia interpersonal en la sociedad vizcaína a finales del Antiguo Régimen”, *Clío & Crimen*, 12 (2015), 215-232.

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