Gwenda Morgan, Peter Rushton, *Rogues, thieves and the rule of law. The problem of law enforcement in north-east England, 1718-1800*

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ruptures in the representation of violence within specific contexts, such as the epic poetry discussing the challenges of warfare to the 'hero'.

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Published studies of crime and punishment in eighteenth-century England have for the most part concentrated on London and its environs, so this study of crime, justice and punishment in north-east England is especially welcome. In this thoroughly researched book, Gwenda Morgan and Peter Rushton analyse patterns of prosecutions at the assizes courts and quarter sessions for the counties of Northumberland and Durham, as well as the separately governed cities of Newcastle and Berwick, noting both differences within the region and contrasts with other parts of England.

Contemporaries thought the north-east was a 'strange, wild and dangerous' place, where distance from London and the instability of the border with Scotland led to considerable lawlessness. In contrast, and following the arguments of Alan Macfarlane's study of the Smorthwait gang in the neighbouring county of Westmoreland in the late seventeenth century¹, Morgan and Rushton argue that the area was predominantly law-abiding: 'crime rates seem much lower than elsewhere... local methods of law enforcement, despite having to police a large, thinly populated territory, were surprisingly effective' (216). This, of course, raises the question of whether it is possible for historians at this remove to measure crime. Morgan and Rushton argue strongly, but not persuasively, that a quantitative analysis of the judicial records can, with due caution, provide a reasonably accurate indication of the level of crime committed, since other records which document crime, such as newspapers, do not report a significant number of crimes which were not prosecuted. This conclusion is undermined, however, by the point that newspapers tended to report crimes only after suspects had been arrested, and by evidence that most criminal accusations recorded in notebooks kept by justices of the peace (which rarely survive) were resolved without a formal prosecution; that many parts of this region were not served by resident justices (to whom criminal accusations were typically reported); and that despite strong traditions of riot and industrial unrest in this area few prosecutions for riot were initiated. The fact that most people, including law enforcement officials, preferred to respond to crime with negotiation rather than formal prosecution clearly calls into question the value of the formal judicial records in providing a reliable quantitative picture of the nature and extent of crime.

For the most part, patterns of prosecuted crime in the north-east were similar to those found in other parts of the country. Thefts predominated, with rural areas experiencing primarily thefts of animals, clothing, and ironware, including occasio-

¹ Macfarlane (1981).

nal burglaries, and urban inhabitants suffering from pickpockets and petty thefts, frequently of cloth and clothing, from houses and taverns; there were few violent crimes and other serious offences such as coining and forgery. Despite contemporary fears, there were few established gangs, in the modern sense of the term, though there were some loosely organised criminal networks, with the participants often linked through kinship ties. The most surprising finding, though it does echo evidence from early eighteenth-century London, is the large number of women prosecuted, particularly in Newcastle, where they account for more than half of the defendants indicted at quarter sessions, primarily for petty theft. No convincing explanation is given for this significant phenomenon, which demonstrates the need for more research on women living in cities in this period. Yet Morgan and Rushton are suitably cautious about overemphasising gender differences, since patterns of male and female criminality were overlapping: 'theft in the region was gender-related rather than gender-specific' (100). Although they found some evidence of separate female networks of thieves and receivers, for the most part their conclusions do not support Garthine Walker's argument that there was a 'predominantly female culture of dishonest activity' in the early modern period².

But probably the most significant findings in this book concern the punishment strategies adopted by the courts in this region. As in other areas, the authors found a significant decline in the proportion of convicted felons who were hanged, but the way the courts of the north-east used 'secondary' punishments was distinctive. They were slow to adopt transportation, not using it on a significant scale until the 1750s. On the other hand, their early use of incarceration is 'striking', coming as it did before the publication of the Enlightenment treatises on criminality and punishment. The authors date the use of 'reformatory' imprisonment back to the very start of their period, when houses of correction, which put virtually all their prisoners to hard labour, were used for the punishment of petty thieves convicted at quarter sessions. Nonetheless, the passage of the Penitentiary Act in 1779 and the work of John Howard did have an impact, as it led the assizes judges to use houses of correction as a de facto 'penitentiary'. And at the very end of the eighteenth century the houses continued to be innovative with the introduction of solitary confinement (in 1791 in Tynemouth, and 1801 in Newcastle). Gaols, on the other hand, were primarily used for the 'ragbag of offenders who were not considered... to be needing reclamation through hard labour' (188). At the same time, the courts continued to use 'shaming' punishments (such as the pillory), corporal punishments (primarily whipping), and hanging, occasionally followed by the dissection of the body. This evidence clearly militates against linear histories of the development of modern forms of punishment and against mono-causal explanations for why they were introduced. As the authors conclude, 'the eighteenth century «civilising process» could accommodate directly incompatible attitudes and policies' (178). For most of this period the judges and justices of the north-east used the full range of punishments available to them, adapting punishments to their perceptions of the nature of the crime, the character of the criminal, and the demands of public order. In this sense the most important factor shaping penal strategies in the region was the nature of the cases which came before the courts; the early growth in imprisonment, for example, was encouraged by the large numbers of women convicted, since there was considerable reluctance to hang or transport women convicted on a first offence.

² Walker (1994, p. 85).

An examination of penal strategies in the region thus leads to the important conclusion that local magistrates had considerable 'scope for local invention and innovation'; the 'localised state' in the eighteenth century 'permitted diversity between the counties, allowing justices to evolve a policy which fitted their notion of local needs' (216). Other examples of local innovation are in the realm of policing, notably the elaborate system of daily and nightly watch in Newcastle under the supervision of a salaried officer (though more radical changes to the watch occurred in eighteenth-century London)³, and the use by local officials of armed soldiers to quell riots 'as a first rather than a last resort' (201). The authors' conclusion that the north-east 'as much pioneered as followed national trends in law enforcement and punishment' seems fully justified (218). Not for the first time, the limitations of the records produced by the English judicial system have led to a study which produces far more important conclusions concerning the nature of judicial, penal, and policing strategies than about crime itself.

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Nicole Arnaud-Duc, *La discipline au quotidien. La justice correctionnelle dans la Provence aixoise du XIX^e siècle*, Dijon, Éditions de l'Université de Dijon, 1997, 325 p., ISBN 2 901074 14 6 (Publications du Centre Georges Chevrier pour l'histoire de la Bourgogne du moyen-âge à l'époque contemporaine, n° 14).

À la recherche des faits divers, de la justice au quotidien et des délits ordinaires, les chercheurs se succèdent dans leur plongée à l'intérieur des archives des tribunaux correctionnels. Les travaux de Bouloiseau, Corbin et Santucci ont déjà mis en évidence l'extraordinaire richesse de ces documents mais aussi les difficultés de traiter une telle masse d'informations. Le plus souvent, les auteurs ne se limitent pas à une analyse quantitative facilitée par l'homogénéité des sources et le caractère répétitif des renseignements fournis par les registres des jugements. Ils exploitent également, quand ils existent encore, les dossiers de procédure contenant les déclarations des témoins et des prévenus, et pénètrent, ainsi, au cœur des relations tissées à l'intérieur des communautés et au sein des mentalités des oubliés de l'histoire.

³ Reynolds, 1998.