COMMENTARY

VIOLENCE, SOCIAL CONTROL, AND COMMUNITY PLANNING IN MEDIEVAL ITALIAN CITY-STATES*

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I.

Between 1337 and 1339 Ambrogio Lorenzetti painted a series of frescoes on the walls of a council chamber in the great town hall of Siena. On one wall Good Government is represented in the cycle as a wise old king surrounded by personifications of Peace, Faith, Hope, Charity, Justice, and Concord. Elsewhere in the scene, people throng the square, merchants trade and count gold in their stalls, and girls dance unafraid in the streets. Outside the walls, peasants are depicted ploughing, harvesting, tending their huge white beasts, and approaching the city with their produce. On the opposite wall is a fresco showing Bad Government and its attendant evils: a horned black figure sits among the vices Tyranny, Cruelty and Fraud, while Justice, bound, is trampled. Although the wall is damaged, the onlooker still can see robbery, murder, and scenes suggesting the end of the city's commercial and public life. Although the theme of this cycle is now known to have been "Justice and the Common good," only a century after Lorenzetti, both the preacher San Bernardino and the sculptor Ghiberti mistakenly thought that the frescoes depicted War and Peace.[1] Their interpretation suggests that in contemporary, or near contemporary eyes, the failure of civil government brought disasters identical to those perpetrated by an external enemy, while the benefits pictured, according to common beliefs, depended upon the absence of violence and on the presence of *pax et quies*.

1. J. LARNER, CULTURE AND SOCIETY IN ITALY 1290-1420, at 115 (1971).

About 250 years later, in a tradition of social and political analysis that reached back to Hippodamus, Plato, and Aristotle, the Jesuit humanist, teacher, and ecclesiastical politician, Giovanni Botero, perceived civic success in similar terms. In his examination of the fundamental causes of urban greatness, Botero stressed the need for and interrelationship of Justice, Peace, and Plenty. "Our lives, our honour and our substance," he wrote, "are all in the hand of the judge." The ruler "must keep the towns . . . free from violence and knavery, whose remedy is in the plenty that peace with justice brings."[2]

In the centuries between Lorenzetti and Botero such ideas became commonplace as theologians, jurists, educators, and political leaders sought to identify the means to civil survival and greatness, and assure them for their own city. The foremost jurist of the period, Bartolus of Sassoferrato, wrote treatises on urban party politics and violence. In history, Machiavelli and Guicciardini, to mention only the greatest, marveled at Italy's civic past and sought to explain it. From the beginning of their endeavor all these men perceived their cities' problems, wrote clearly and to the point about them, but achieved no real success in altering events. Those who correctly correlated the persistence of private and group violence with the failure of republican government, eventually witnessed the near universal replacement of the republican institutions they favored, often by "Renaissance Despotism" or "The Princely Governments of the Renaissance."[3] Similarly those who sought a "virile official" or provide more police and more protection remained only partially satisfied.[4]

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2. G. BOTERO, THE GREATNESS OF CITIES 253, 280 (R. Peterson transl. 1956); G. BOTERO, THE REASON OF STATE 19-20 (P. Waley & D. Waley transl. 1956).

3. Medieval "republican government" refers to the hundreds of self-governing cities of every size that created institutions of self-government during the period ca. 1100-1400. Besides an executive and a judiciary, each city possessed elected small and large executive councils ranging in size from four to 20, and larger public assemblies of 200, 400, or even 1000 citizens. Citizens were elected to such bodies from their guilds and/or places of residence. Although, in effect, real power was usually in the hands of wealthy merchants and rural nobility whose interests were tied to the city's, nevertheless these persons did not easily dare to circumvent formal written and, indeed, revered constitutional procedures. Two fine surveys of these institutions now exist in English. *See* J. HYDE, SOCIETY AND POLITICS IN MEDIEVAL ITALY (1973); D. WALEY, THE ITALIAN CITY REPUBLICS (1969).

4. On the desire of citizens for princely institutions that would protect them against violence, see Bueno de Mesquita, *The Place of Despotism in Italian Politics*, in EUROPE IN THE LATE MIDDLE AGES 300 (J. Hale, J. Highfield & B. Smalley eds. 1965).

Today in Italy, their descendants on the right of the political spec-
trum, those who support neo-fascism and monarchy, still demand more
honest and efficient officials, harsher penalties and tougher, more in-
corruptible judges.   Thus, from the Middle Ages until the present, vi-
olence, especially urban violence, has been an important phenomenon
in Italian politics and not merely a minor administrative matter with
implications only for specialized scholars and involved technicians.[5]
Indeed, Europe's first large-scale attempt at local representative gov-
ernment based on an extended, albeit not universal suffrage, failed
in part because medieval communal society ultimately did not provide
order and tranquility for its citizens.   Although the republican govern-
ments of the cities eventually ruled by the Medici, Sforza, the Este and
other dynastic chieftains were only moderately successful in their ef-
forts to achieve peace, for a time even that partial success elicited pub-
lic support.   The success of princely—as opposed to representative—
government, and its ability to stimulate "patriotism" depended in some
degree upon its ability, as a bureaucratic and police government, to pro-
tect its subjects.

What, then, were these cities like?   What were their problems and
resources?   Why, despite their sometimes rather self-conscious at-
tempts at "community design" did they fail?   The generalizations that
follow attempt to describe in necessarily broad language a very complex
situation in many cities over hundreds of years.   Of primary interest
are the points of weakness at which the theory of Christian politics and
social organization broke down.   Parenthetically, the adjective "Chris-
tian" must be employed here, and understood.   Medieval urban society
was, despite its avarice and materialism, very much shaped by re-
ligious values, as manifested by countless churches, banker's ledgers
listing God's penny, and charitable foundations for the amelioration of
every human condition.   Profit and worldly success were goals of
medieval civic leaders; so too were Justice and Charity.

I shall begin with the particulars and eventually risk a few general-

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5. This is not to limit the impact of violence to Italy.   Northern Europe too suf-
fered from endemic lawlessness at every social level and in every social environment.
There, too, princely, or royal, government profited from its ability to deliver peace and
justice.   The history of the medieval monarchy is frequently written as the story of kings
who brought justice to their weak subjects by restraining the lawless mighty.   Louis IX
of France, Saint Louis, is classically pictured beneath the great oak at Vincennes listen-
ing generously to the complaints of all.   For a famous picture of French violence, see
A. LUCHAIRE, SOCIAL FRANCE AT THE TIME OF PHILIP AUGUSTUS 1-36, 249-324 (1967).

izations. Through a survey of several Italian cities, the problems associated with violence and its control may be seen in relation to actual social conditions and politics.

II.

Medieval and Renaissance Venice has been depicted as a great solid state, its power based upon international commerce and the support of its ruling class for political institutions that assured social peace. Venice *was* better run than most Italian cities, but one must not exaggerate the city's tranquility. The documents reveal violence against persons (homicide and rape), and property (robbery and larceny), and outrage against public decency (in the form of obnoxious sexual behavior). In Venice both familiar and unusual conditions existed. Here as elsewhere, the nobility were fractious, husbands and wives were violent and recriminatory, and the young lacked discipline. What made Venetian society somewhat different from that found in most other Italian cities was the presence of a large number of strangers. Venice desired skilled and wealthy foreigners as did other places; she attracted them by promising lower taxes for a period and granting the right to trade. These benefits to newcomers, however, apparently rankled citizens and provoked disagreements, especially when so many of the foreigners were Germans with whom the Venetians had little cultural and psychological rapport. Venice was already a vacation town, which is to say that crimes associated with gambling and sex were not infrequent. Apparently Venetian authorities confronted their problems well. Investigative procedures were defined in the statutes and if torture was allowed, its use was carefully controlled. An arresting officer had to justify his action within a week; courts demanded, and presumably obtained, a maximum of evidence in every case; and apparently sentencing, to judge from one analysis of 25 cases, was equitable with regard to both rich and poor.[6]

South and west of Venice, just north of the Appenines, and stretching from Bologna in the center of the peninsula toward the Adriatic is the Romagna. In the late middle ages this was a rich agricultural region comparable to the open and fertile farmlands of France. Unfortunately, as in France, the area was dominated by nobles who lived

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6. *See* Chojnacki, *Crime, Punishment, and the Trecento Venetian State*, in VIO-LENCE AND CIVIL DISORDER IN ITALIAN CITIES 1200-1500, at 184 (L. Martines ed. 1972) [hereinafter cited as VIOLENCE].

in the many small towns and castles that dotted the countryside, and who constantly squabbled over estates and municipal dignities. They also engaged in the vendetta, an informal institution that for a long time proved compatible with more formal means for the delivery of justice. By the end of the thirteenth century, every town had fallen into the hands of one family *Signore*; each *Signore*, or lord, had his imported podestà, a professional judge-policeman who was hired with his staff for a set term of office. This system had developed in response to the conflicts of the "communal" period of the town's history. From approximately 1100 to 1200, politics had been dominated by local landed nobility, and their family representatives in high local ecclesiastical office, especially the episcopacy, in addition to wealthy merchants and lawyers and other professionals. Over the course of the century, new, rich and skilled people had sought political voice and had failed; old families had developed violent hatreds one against the other in good Montague and Capulet fashion; and immigrants who had successfully entered the economic community still found themselves excluded from the political community with its honors and powers. Everywhere towns seethed or boiled over into street violence that threatened the economic growth everyone desired. The podestà was the system's answer to the conflicts of the "communal" period. Usually he was a noble trained at Bologna, and from a city friendly to the one in which he served. Family background gave him military and police skills. University education gave him oratorical and legal skills. His impartiality, his desire for professional advancement to service in a larger town in some future year, and his financial accountability to the city fathers who had hired him were factors intended to keep him an honest restorer of social and political harmony.

In the Romagna town of Rimini, about 1300, for example, the podestà brought with him one knight, three trained judges, and ten policemen to service a population of a few thousand. His principal objectives were urban peace and justice for all. Although his policemen were ordinary soldiers, his judges theoretically had five consecutive years of legal training at Bologna or at some other renowned university.[7]

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7. On conditions in the Romagna, see J. LARNER, THE LORDS OF ROMAGNA (1965); Larner, *Order and Disorder in Romagna, 1450-1500*, in VIOLENCE 38. The surveys by Waley and Hyde place the podestà and other thirteenth-century institutions in context and contain very serviceable bibliographies. On the training of a medieval lawyer, see

Across the Appenines from the Romagna lie two Tuscan cities, Pistoia and Florence. Each presents its own problems for analysis and contributes to the entire panorama.

Unlike Florence, which is situated on a river crossing, Pistoia rests on a plateau and takes its identity more from the mountains above than from the river below. Much of the diocese lies to the north of the city in the foothills and the high mountains in which were found the tough upland peasants, herders, brigands, smugglers, woodsmen, and rough petty nobility. Turbulent people, they quite literally scrounged a living from the thin soil and chestnut trees, and by raiding each other's flocks. As the town's leading modern historian asserts, "Suppression of private warfare constituted the greatest single problem faced by the community in its effort to attain a new, more ordered and more stable form of political life." Local government, always limited in its resources, could never fully replace private justice. In this mountainous terrain a few great noble families, the magnates, attracted followers, and with them dominated not only the minor valleys but also, at times, the city itself. For three centuries the gildsmen of the city attempted to preserve their constitution and its institutions as magnates fought other magnates with private armies, or, for some private ambition, aroused and manipulated the poor. Here as elsewhere, when the podestà was imported, he served primarily as a peace and police officer. Not only did he have his own staff, he also had the right to call upon 300 "good men of the people" to help him maintain order. He held a criminal court as well as a civil court. Even as the judiciary grew more specialized after 1300 and his courts were displaced, the podestà retained his police function.

It was a Pistoian brawl that triggered one of the most famous vendettas of the entire middle ages—that between the Whites and the Blacks. From Pistoia, this conflict with its resulting alliances moved to Florence, 21 miles away. Dante celebrated the feud and himself suffered from it; his family was in the faction that lost. Exiled, he never saw his native Florence again.[8]

J. BALDWIN, THE SCHOLASTIC CULTURE OF THE MIDDLE AGES 70-77 (1971); 1 H. RASHDALL, THE UNIVERSITIES OF EUROPE IN THE MIDDLE AGES 204-32 (1936); S. STELLINGMICHAUD, L'UNIVERSITÉ DE BOLOGNE ET LA PÉNÉTRATION DES DROITS ROMAIN ET CANONIQUE EN SUISSE AUX XIIIe ET XIVe SIÈCLES (1955). Obtaining a degree was no easy matter. A student worked four to five years for a bachelor's in civil law and might take up to 10-11 years to receive his doctorate in both civil and canon law (DUJ).

    8. On Pistoia, see D. HERLIHY, MEDIEVAL AND RENAISSANCE PISTOIA 198 (1967); Herlihy, *Some Psychological and Social Roots of Violence in the Tuscan Cities*, in VIO-

Florence exhibits other characteristics necessary for the creation of a composite picture of Italian urban society. According to the reliable historian, Giovanni Villani, who wrote of his own time, Florence had 100,000 persons in 1338. A dozen years later, just after the black death, that figure was down to 50,000. Either figure represents an enormous population for the fourteenth century. At least 60 percent of that population was poor. Professor Gene Brucker's analysis of the 1389 tax returns in a sample parish of 547 households showed that 302 families belonged to the *popolo minuto*; these families apparently had *some* property derived from employment in the woolen industry or some artisan activity and thus *made* the tax rolls—unlike the many beggars, porters, vagabonds, criminals, and servants who did not. Besides these lowly persons, a whole professional and semiprofessional underworld flourished in Florence, few of whose inhabitants maintained a stable urban residence. Rather, they moved from quarter to quarter within the city, or oscillated between the city and their place of origin in the *contado*, or countryside, depending upon the season and their luck in town.[9]

Another historian makes a complementary analysis: In Florence 1 percent of the population owned about 25 percent of the city's wealth, while 31 percent owned nothing. The figures for Pistoia are comparable: the richest 10 percent owned 60 percent or so of the city's taxable wealth, while 30 percent had no taxable wealth at all.[10] Botero's assertion that a city needs "plenty" to assure its social equilibrium and success was not satisfied, given the living quarters, diet, and public health of that vast urban poor.

There were people of property in Florence: thousands of artisans were connected with various processes involved in making woolen cloth; there were many merchants, regional and international, who frequently, like the Bardi and Medici, offered banking services as well. These merchants organized into guilds, and in the fourteenth century Florence was governed by an upper-middle-class oligarchy fearful of the extremes: on one side, the workers and on the other, the great

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LENCE 129. For the changing position of the podestà in the city's judicial system, as it developed in relation to political pressure and substantive demands, see D. HERLIHY, *supra*, at 213-39.

9. On Florence, see Brucker, *The Florentine* Popolo Minuto *and its Political Role, 1340-1450*, in VIOLENCE 155.

10. Herlihy, *Some Psychological and Social Roots of Violence in the Tuscan Cities*, in VIOLENCE 129.

landed magnates, still influential in the city's council chambers from which they had been constitutionally excluded at the end of the thirteenth century. When, on occasions, fighting broke out in Florence's narrow boney streets, members of the aristocracy were frequently identified as mob leaders or as the behind-the-scenes instigators of upheaval. They did not intend social revolution but rather their restoration to power. The system was to remain intact.

In the fourteenth century Florence suffered from local wars which, if successful vis-a-vis Pistoia and Arezzo, for example, nonetheless brought death and taxation. There was also the plague, the fear of roving unpaid mercenaries attacking the city, dislocation of foreign markets, even a war against the Papacy, and towards the very end of the century, the sight of Milan's armies not far from the walls.[11] In all this calamity, the middle class, the very class on whose stability, as Botero clearly recognized, the greatness of cities depended, suffered the most. As the moderating influence of the Florentine middle class weakened, two ongoing events could be perceived. First, violence on the part of the lower classes increased; the most famous revolt was that of the *Ciompi* or lesser cloth-workers in the summer of 1378. And second, increasing violence by the magnates occasioned a progressive devolution of authority and power into the hands of the trained, military executive—in the case of Florence, the Family Medici. As we saw, the rule of the Prince offered some compensation, in the form of better delivered "law and order." Another statistic demonstrates the necessity for executive effectiveness: during the 1330's, members of 46 of the commune's 72 noble families appeared before the city courts and were convicted on one charge or another. If the Medici in Florence (and the Visconti in Milan, and Scaliger in Verona, to take two other examples) managed to restrain such violent and arrogant individuals, it proved to be at the expense of representative institutions.[12] Earlier, guild government had tried to control the magnates, levying exaggerated fines, exiling them, and destroying their palaces and alliances. But middle-class power was never sufficiently capable and sustained simultaneously to submerge its own factionalism and to develop to perfection the skills of leadership that come so naturally to the country barons.

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11. In Italy and France at this time, military bands under the command of professional captains threatened their employers when contract terms were not met.

12. See sources cited note 3 *supra* for an introduction to the history of urban representative government.

Rome too was plagued by the private warfare of its ancient families who for centuries had contested for the Papacy, control over special churches, and the lands in and around the city. But in Rome there existed special conditions derived from its ancient physical inheritance and medieval position as capital of a universal church.

One of ancient Rome's legacies was the multi-storied tenement in which many families lived. Family (*familia*) signified, in the middle ages and Renaissance, not merely parents and their children, but rather all of the generations bound by blood ties; in those families wealthy enough to have them, *familia* embraced armed retainers and household servants as well. (Even today the word still describes everyone in the Vatican from the Swiss guards to the Papal secretaries and chamberlains who staff the Papal offices.) In its dense and potentially explosive slums, Rome, like the two other cosmopolitan cities previously examined, had a proficient underworld. Every year thousands of somewhat affluent pilgrims, litigants, and ambassadors came to Rome, targets for individual criminals and for the criminal gangs—who also fought each other. More than any other place, Rome was the Las Vegas—or better, the San Francisco or New Orleans—of the middle ages, and so the city that should have served as model for all others, instead provided almost an antimodel for what the Christian community was to be.[13]

Thus, almost every crisis of modern urbanism was experienced by one or another Italian city, depending on its size, geography, the nature of its class divisions, and the peculiarities of its productive, commercial, or religious life.[14]

III.

Crimes against people and property were commonplace, despite the teaching of the Church and the well-known severity of punishment.

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13. On Rome, see R. BRENTANO, ROME BEFORE AVIGNON (1974); Brentano, *Violence, Disorder and Order in Thirteenth-Century Rome*, in VIOLENCE 308.

14. To be sure, "race" in the terms of our century was unknown to medieval communities, although Jewish outsiders were everywhere, and towards the end of the middle ages African blacks were imported as domestic slaves. Yet, given the emphasis on local culture and the peculiarities of local experience, "race" did exist as a problem in its own terms. In a sense, the man of another civic culture was of another race or kind, a stranger to the local cultural, political, and religious influences that made a person a Florentine, Milanese, or Venetian. This strong sense of identity was manifested by the enactment of discriminatory legislation against foreigners.

Ordinary criminals depended upon the apathy or sympathy of their neighbors for cover, while the more powerful relied upon the certain influence of their military, social, and political power. The latter phenomenon, the degree to which private families, singly or grouped into associations, could overawe public authority, is unique to the city society discussed previously.[15] A coordinate phenomenon was the near universal availability of weapons and the skill to use them. Today we worry about the handguns that, increasingly, make *our* urban life look as violent as *theirs*. Then, depending upon class and occupation, the city resident might effectively use, besides the obvious sword, knife, and axe, eighteen-inch shears, a hammer and tongs, or the butcher's cleaver. Also, the urban dwelling of the late middle ages, like the suburban home of today, frequently had its little area of turf for gardening; thus, the townsmen might use his stave, scythe, flail, or pitchfork. Masons, jewelers, tanners, clothworkers, all had *their* specialized sharp or heavy instruments. Clearly, that simpler world was sufficiently complex to provide almost every citizen with a familiar instrument of potential violence.

Additionally, there were special qualities rooted in the demographic structure, as Professor Herlihy has shown in his study of Florence's *Catasto* of 1427, a combination census and inventory that describes the persons and possessions of some 250,000 living in 60,000 households. Herlihy notes that the average age of male Florentines was 26 and that half of the entire population was under 22. Fathers, were "very old in relation to their sons," and were, on the average, 40 years old when their sons were born. It is likely that relatively few fathers survived to advise and discipline young Florentine bucks in their late teens and twenties. Rather, education was left to permissive and indulgent mothers. Moreover, children were particularly numerous in the wealthiest families, whose money and influence gave the young both an impetus to, and security for, impudence and violence. That these men married latest is significant as well; such well armed and protected males did not settle down into quiet, respectable lives until they were in their mid-thirties. They organized into leagues for both aggression and self-protection. These same men showily displayed a large pro-

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15. Nonetheless, clans and other associations did exert some control over individual members and thus facilitated orderly government. Their actions were always the function of conflicting public and private goals. Brentano, *Violence, Disorder and Order in Thirteenth-Century Rome*, in VIOLENCE 308.

portion of the wealth of society—the sumptuary laws of both church and state notwithstanding.[16]

I previously stressed the essentially Christian nature of medieval life. The community design that was attempted, and accomplished in some degree, was shaped by religious goals. Medieval and Renaissance society was conceived by theologians as the mystical body of Christ and described by some social and political theorists as an organism of interdependent parts. Its normative concepts were peace, harmony, community, and justice. Whereas present-day urban moralists and planners see the community in basically institutional and geographic terms, their counterparts in, for example, the fourteenth century, thought primarily in terms of individuals. We plan the community in terms of housing, transport systems, and refined public services ranging from the delivery of water to the delivery of welfare checks. Our phrase "urban redevelopment" suggests an iron ball smacking against a brick wall in advance of the construction of some new glass and bronze tower. In the middle ages, and indeed in pagan antiquity, a city, *polis, civitas*, was not viewed primarily as a thing of bricks and stones. Rather, it was conceived as an assemblage of people who supported a given set of laws, participated in political acts, and worshipped together. Each person was, in turn, shaped by the totality of cultural and physical influence exerted by a place that, over time, had developed its special nature. In other words, the measure of a city was the quality of its inhabitants. The measure of a Christian city was the goodness of the Bishop's subjects. Still in the fourteenth century, community design meant, ultimately, moral education. Intelligent men analysed the moral weaknesses of their neighbors with a view to remedying those failings and creating a successful, law-abiding community.[17] One must emphasize that medieval Christian society, urban or otherwise, had much in common with the ideological societies of the twentieth century that, on both the left and right, have sought to change the world by changing individuals.[18]

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16. *See* Herlihy, *Some Psychological and Social Roots of Violence in the Tuscan Cities*, in VIOLENCE 129.

17. For a good introduction to the history of education conceived in the broadest cultural terms, see E. GARIN, L'EDUCAZIONE IN EUROPA (1400-1600) (1957).

18. For example, emphasis was placed by both Fascist and Communist governments upon the training of youth. Italy's national anthem under Mussolini was "Youth" (Giovanezza); the first big squabble between the Vatican and Fascismo was over control of the education of the young.

The medieval city state was viewed by its theoreticians and leaders as a special moral universe whose force was to be exerted creatively upon its present and future citizens. Consequently very little "modern" analysis of criminality in terms of "causes, nature, and cure" was made. Rather, some critics ascribed evil conditions to the will of God, while others added to that notion a cyclical theory of history which assumed that bad times have to follow good. Astrological theories abounded as men tried to determine the limits of such alternating periods. Yet, within such frameworks, popular theology was still required to remain within bounds of orthodoxy on such issues as personal responsibility and the individual will. Thus, Dante in one passage wrote of the pride, envy, and avarice that caused Florentine troubles. Other literary figures such as the Paduan poet and historian Mussato and the Florentine chronicler Dino Compagni also viewed contemporary disaster in personal terms, part of a tradition that reaches back to Augustine and beyond to Roman moralists. With their penchant for complete formulations, the medieval writers frequently linked special vices with identifiable segments of society. The association of pride with youth originates in this kind of analysis; similarly envy was considered the special failing of the great magnates who were always sensitive to the appearance of aggressive new families. For their part, aristocrats burdened successful merchants with the sin of avarice and tended to view every contract of exchange as an exercise in usury.[19]

Not too different were the civil lawyers. Taking their inspiration from the Old Testament and Roman Law, the vast majority were interested only in the retaliatory and punitive effect of punishment. This observation is true even of one of the more original penologists of the fourteenth century, Lucas de Penna, whose somewhat idiosyncratic ideas link him to Botera and Beccaria. Although Lucas examined relationships between the individual and his environment, as well as between the crime and the punishment, he was principally interested in deterring the evil doer. He contemplated accomplishing this purpose by restoring the criminal to good intentions. If Lucas believed that crime is an offense against society as a whole, he also held that the evil deed was a manifestation of some negative internal force that must be changed. Society must function well, in terms of honest administration of wise penal codes, but additionally, the will of the criminal must be

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19. *See* Herlihy, *Some Psychological and Social Roots of Violence in the Tuscan Cities*, in VIOLENCE 129.

altered, presumably by just the kind of moral suasion prison chaplains are supposed to exercise in our society. Lucas cannot be considered modern, however, for he lacked our awareness of the need to change the conditions of society that produce evil-willed men.[20]

Analysis of individual behavior led to some interesting, and for us, important views on the relationship between the good citizen and his community, in other words, on political obligations. While some thinkers were interested in the reasons an individual erred, others examined how some wrongs might harm the community. By the end of the thirteenth century many sophisticated thinkers in and outside the law had absorbed Roman Law notions of the common good as well as Aristotelian visions of active citizenship in a naturalistic order. According to the Dominican Remigio de Girolami, a moralist teacher who opened a school in Florence about 1300, the purpose of political life was the advancement of the public welfare. His model was an Aristotelian *polis* in which a life without public service was meaningless. Aware of the factionalism that divided and threatened Florence, Remigio manifested a horror of antagonisms that arose from conflicting loyalties, as when a citizen advanced some party, class, or ecclesiastical interest before that of the state.[21]

Remigio feared that some higher loyalty would intrude between the individual and his political community to frustrate that Aristotelian vision of human perfection in society which, after 1250, became widely known in university and political circles in the West. It should not be surprising that parochial allegiances frequently if not usually prevailed. Outside of the Italian city states, throughout Europe, political loyalties were personal, directed to clan chieftains, kings, feudal lords, abbots and bishops, and not to elected municipal officials. The former held power by God's will or blood line, the latter by constitutional provision over a term whose length was frequently limited to a few months or a year. The wonder is that the cities accomplished as much as they did in making men into citizens and giving them a public consciousness.

Just as private antagonisms were resolved by force, so too were public disputes. Political class, and to a lesser degree, church-state contro-

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20. *See* W. ULLMAN, THE MEDIEVAL IDEA OF LAW AS REPRESENTED BY LUCAS DE PENNA 142-62 (1946).

21. On Remigio, see Davis, *An Early Florentine Political Theorist, Fra Remigio de Girolami,* 104 PROC. AM. PHIL. SOC'Y 662 (1960); Hyde, *Contemporary Views on Faction and Civil Strife in Thirteenth and Fourteenth Century Italy,* in VIOLENCE 273.

versy also provoked crime and violence in the form of assassination, assault, and conspiracy. Great issues as well as basic needs and petty hatreds precipitated men and women into violence.

IV.

Turning from discussion of cause to discussion of remedy, one may ask what resources were available to civic authorities in the fourteenth century. Against all the essentially centrifugal forces described above what were those forces that kept order, maintained social control, and, in effect, held the city in being? Reserving discussion of judicial and penal controls, I shall first examine cultural and constitutional matters.

As has been suggested, a commune's political and military life was structured to promote civic awareness and love of the city's laws. A citizen was to pay taxes and serve in various administrative offices and military bodies. His guild might furnish a contingent to the communal army or the guard of "good and true men" of the popolo's semi-public army—if the state was a guild republic whose politics were founded upon guild-based representative bodies. He might serve in a watch, or wall-defense contingent based upon parish affiliation, for socio-economic and religious affiliations underlay military affiliations and re-inforced them. In time of conflict with a neighboring city, the entire adult population might be called out to serve alone or with mercenaries hired with communal funds.

War was a primary component of municipal history. Memories of battle and deeds of heroes fashioned citizens' memories and affections. The regional squabbles over territory that lasted centuries, such as the one between Florence and Siena, gave a man one of the hatreds that shaped his emotional life. On a larger scale, Genoa and Venice fought over control of the ports and profits of the eastern Mediterranean. War produced not only heroes but physical symbols as well. The city's standard incorporated the power of the patron saint as well as that of the government; the *carroccio,* an enormous wheeled cart drawn by 10 to 12 huge white oxen was pulled into battle as a symbol of the commune's might. Bearing the standard of the town and the smaller pennants of its constituent organizations, the *carroccio* served as the rallying point for the city's soldiers. Its size and miraculous powers were available to men of every social class united in service to the city's common purpose.

Complementing war in socializing and unifying effect were various forms of play, some violent, such as the brutal games played between parishes or quarters, others spiritually uplifting, such as the religious ceremonies in which the entire population was bound in brotherly peace to a saintly protector. Life in the city was filled with meaningful ritual; for example, there was the race up the mountainside by Gubbio's three saints, each represented by an enormous totem carried on the shoulders of 12 men. Further, every banquet, ceremony, or festival of a guild was tied to the spiritual as well as the socio-economic life of the town. Every aspect of the "circus" element in civic life functioned as another cohesive force in creating one full, unifying life for the citizenry. Even the particular tone of the cathedral's bell was celebrated as an integral part of the city's identity.[22]

If a city invariably depended on play and war for unity, it also depended on trade. Genoa and Venice annually dispatched great municipal trading fleets. Participation in these corporate enterprises, denied to foreigners, Jews, and other outsiders, depended upon the individual's legal status and reputation for good citizenship. Frequently men changed, or attempted to change, their citizenship to gain the commercial advantage that citizen status in a powerful city brought. For its part, when a city desired to bring a particular merchant or noble within the community, it offered legal protection, tax benefits, and, if a constitutional prerequisite for commercial or industrial opportunity, appropriate guild affiliation. Since good reputation was indispensable for receipt of benefit, it is clear that the power of city government to grant or withhold privileges was an important instrument of social control. Commitment to a city and its laws was developed through commercial competition as well as in war.[23]

The wealth that war and business brought contributed to civic education. It built schools in which religious and, by the late thirteenth century, lay teachers taught not only the catechism and business mathematics but also an accurate or aggrandized history of the community. By 1300, it was not uncommon for towns or patrons to command lengthy urban histories that fictionalized connections between medieval and glorified Roman times. Also, chroniclers of contemporary

22. On the role of the "play element" in culture, see J. HUIZINGA, HOMO LUDENS (1950).

23. On the benefits of citizenship and the needs of state, see Riesenberg, *Citizenship at Law in Late Medieval Italy*, 5 VIATOR 333 (1974).

events extolled current leaders and civic accomplishments. Students studied such works in prose and poetry. In the same schools Aristotelian scholars like Remigio taught sacrifice for the community while Christian moralists instilled traditional attitudes of passivity, resignation, self-discipline, and respect for parental and lawful authority. The new secular history of the town never omitted the contribution of the early bishops. By the fourteenth century the identity of the town and that of the saint and his representative, the bishop, had been intertwined over a thousand years of extended crisis; throughout a period of invasions, seiges, and famines the complex powers of the bishop had contributed to survival.

The complementary activity of secular and ecclesiastical leaders is today physically visible because cities manifested their identity then in public works. Walls, cathedrals, and town halls were meant to evidence town wealth, power, and creative ability. They were also meant to teach love of a city and its institutions. Cities competed for the services of the best sculptors and artists so that their fountains, as at Perugia, or frescoes, as at Siena, might reveal to passing citizens and especially to those in responsible offices the benefits of virtuous life. Here again is seen the emphasis upon education as the precondition for civic harmony, order, and success. The hope was to create awareness and love as well as respect.

Finally, in a review of cohesive forces, the role of practitioners of rhetoric and law in maintaining community institutions must be mentioned. From the mid-thirteenth century there survive several treatises on city administration containing models for public speaking. They contain, for example, the recurrent speech to honor those who have died defending the fatherland. In Venice, as early as 1000, the Doge spoke from a balcony in an assembly called the *arenga*, where he harangued his citizens and urged heroic action. Mussolini made the balcony of Rome's Palazzo Venezia famous during the mid-thirties, but every historic civic building in Italy has an *arenga*; the inter-involvement of leader and people is something Italian politicians absorbed long ago from the enveloping ecclesiastical culture.

As for the lawyers, they were involved in more than business, diplomacy, civil litigation, and government administration. As Professor Bouwsma has explained, the vast legal establishment of the late middle ages and the Renaissance was needed to solve very important and un-

settling issues. European economics, morality, religion, and politics were dissolving, and the legal profession was needed to resolve conflict and reach workable decisions. To the disorder and chaos of the times, law in the hands of trained and purposeful men was a proper antidote. Lawyers provided the new secularizing society with what Bouwsma calls a "novel set of empirical, pragmatic and secular attitudes . . . for the orderly administration of this world's affairs."[24]

Lawyers performed before and from the judge's bench, and also in the council chambers where they skillfully devised town constitutions. As apparently every village and city had to have one, there were literally thousands of constitutions from the late middle ages. Each was the work of a jurist working with the urban leadership in an attempt to bring justice in the abstract down to a work-a-day level. Officials' and citizens' oaths to defend and observe these constitutions must have been meaningful, especially when observance was profitable. Such were some of the more important bonds that held together the urban society.

This complex armory of institutions, operations, and values notwithstanding, the cities failed to instill a respect for the public good that translated into law and order. Apart from the legal and commercial benefits that accrued with citizenship, the enumerated cohesive forces were too abstract to oppose pressures that allowed or precipitated violence and crime. Love of city was insignificant when compared with love of self and family. Respect for peace and harmony were concepts difficult to live by when violence might be used to obtain the property one wanted or avenge the honor that meant so much. What was self-discipline to nobles who had only disdain for their social inferiors, or to craftsmen or workers who learned to hate the "fat people," the *popolo grasso*, especially in time of need? It was inevitable that power ultimately devolved to the tyrant who promised to rise above faction and class by promoting universal order and justice. In desperation

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24. Bouwsma, *Lawyers in Early Modern Culture*, 78 AM. HIST. REV. 303 (1973). For an excellent introduction in English to the lawyers and notaries, see L. MARTINES, LAWYERS AND STATECRAFT IN RENAISSANCE FLORENCE (1968). Bouwsma's point is that by 1500 the realities of life were no longer explained by traditional (Biblical) verities. Nor were the leading activists in every field satisfied with the moral condition of the Church from which they expected guidance to Salvation. Hence there arose the need for a new corps of experts with their methods and principles.

people turned to him to restore the efficiency of some kind of working government.

Similar events occurred almost everywhere, and not because legalists or constitutionalists, did not attempt to rule with justice. For example, the statutes of every city with formal representative and administrative institutions show law after law aimed at curbing the power of the magnates. In Bologna, after a killing, magnates were forbidden to enter the streets "because of the bad deeds they daily commit against the people—taking their women and doing other intolerable acts." In that city each magnate was held responsible for the conduct of all his male relations, lay and clerical, who lived in his household. This legislation explicitly recognized the threat to the commercial life of the city were the laws not enforced. At Perugia, when the guildsmen were in power, legislation excluded magnates and criminals from political activity. Florence demanded an oath of good behavior from its nobles, who were forbidden to travel through the city followed by armed retainers. Obviously such laws were used as instruments of both social and political policy; they were meant to repress members of that class whose impulsive and violent life-style threatened the pacific ways necessary for the success of a mercantile community. Unfortunately, the laws actually stimulated hatreds and increased the desire of the nobles to escape from the restrictions and the threats of enormous fines with which they were burdened.

The attempts of Siena to control crime are illustrative. Crime presented no small problem according to Professor Bowsky. He has calculated that between 1270 and 1296 some 17,000 persons were fined for crimes ranging from rape and highway robbery to debt and molestation. These numbers surely are incomplete. Nobles, commoners, women, clergy, and persons of every occupation were involved. Those Sienese moral leaders who commissioned frescoes were justly concerned about the effects of evil in their town.

To handle this crime Siena continually reorganized its police forces. Foreigners were employed by the podestà and other imported peace-keeping officials. New units were constantly created, two in the early fourteenth century for example, and numbers were juggled as first one official, and then another increased his prestige and jurisdiction. Thus, command of the police, which in theory was to be an impartial agent of social control, itself followed the struggle for power within the commune. In addition to these imported quasi-professional policemen, the

city relied upon its own men in the night watch and in positions of police leadership. Frequently conflicts of jurisdiction complicated police functions; in the fourteenth century, once a governmental institution was established it was not easily or quickly dismantled. As a result, by the mid-1330's, when Lorenzetti painted frescoes of Good and Bad Government, Siena had one policeman for every 145 inhabitants. New York City in the late 1960's had a ratio of 1:285 and in Lincoln, Nebraska, the ratio was 1:1000.

Once in the hands of the police and the judiciary, a Sienese criminal might expect harsh treatment; after 1330, a long sentence in the new communal jail built below the town hall was likely. Before that date the state had farmed out its prisoners to individuals or companies. Besides fines, which were very common, or prison sentences, medieval judges had a schedule of other punishments. These punishments reflect medieval society's hierarchy of values, animosities, and its needs.[25]

A principal urban value was peace. Therefore, considerable legislation was designed to control the magnates. Once trouble started, for example, they were to remain apart and in their houses, under threat of enormous fines. At the other end of the social spectrum, on one occasion, Florence tried, convicted, and hanged a highwayman after he had assaulted both Florentines and foreigners, robbed several villagers, and ignored the safeconduct of a German merchant-pilgrim whom he held for ransom. Besides the roads, upon whose safety so much depended, other places received special protection. At Trent one crime committed inside a church brought more than six times its normal penalty. At Bologna and other places, crimes before, or in, the town hall, the seat of public authority, brought quadruple the normal penalty, twice what, incidentally, protected the church. Fear of any violence that might culminate in political action led city magistrates to extend such protection to adjacent streets. Public gatherings such as festivals and market days were similarly protected. Following ancient Roman law, medieval statutes maintained organized public and religious activity by means of ever vigilant and threatening authority.[26]

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25. For a description of Siena, see Bowsky, *The Anatomy of Rebellion in Fourteenth-Century Siena: From Commune to Signory*, in VIOLENCE 229; Bowsky, *The Medieval Commune and Internal Violence: Police Power and Public Safety in Siena, 1287-1335*, 73 AM. HIST. REV. 1 (1967).

26. On the restrictions placed upon Florentine magnates, see the translation from the *Statutes of the People* of 1322-25 in J. MUNDY & P. RIESENBERG, THE MEDIEVAL TOWN (1955). The case of the highwayman is given by G. BRUCKER, THE SO-

It should be noted also that authority itself was specially considered. On the one hand, the penalties for lèse majesté were as terrible as the imagination could contrive, so that they might act as a deterrent; on the other, penalties imposed upon public officials for malfeasance in office were often but not always heavier than normal. Ancient and medieval law vacillated between burdening the public official with a special responsibility, and mitigating penalties that otherwise might diminish the authority of public office and, therefore, the state. Whichever course was taken, Florentine records abound with complaints about the maladministration of its officials, reprimands to these administrators, and records of their fines. Apparently the *Signoria* was at least occasionally concerned to provide for its citizens as the rhetoric of public responsibility demanded.

. In addition to the state and the cult on which it was based, society granted special protection and benefits to minors, women, and children. The higher the social and legal status of a victim, the harsher the penalties for his hurt. Law intentionally protected the matron of good reputation more than the tart, the professor of law more than the worker. Likewise, it punished those defined by the Bible or some other official work as inherently evil: sodomites, sorcerers, gamblers, blasphemers, and parricides, for example. When education failed to convert individuals to a proper life, the state deemed it necessary to fine, mutilate, or otherwise control them.

In accentuating the severity and indeed horror of punishment before, ,perhaps, the Enlightenment, I want to underline that aspect of premodern society which most distinguished it from our own. At stake in the "old society" was not merely the present, or the present world. Rather, . because crime was regarded as sin, the soul and eternity were always involved. Often punishment was used to save not only the individual but also the community whose total spiritual condition and ultimate salvation depended upon the removal of temptation and evil.

V.

How does one now conclude this wide-ranging survey? Perhaps by emphasizing the failure to achieve a stability basic to creative urban life. Plato long ago recognized the prerequisites for the success of

complex and refined human relationships. In Book V of *The Laws*, attempting to establish the fundamental constitution of a new city, he wrote:

> Upon this lasting basis may be erected afterwards whatever political order is suitable under the circumstances . . . we may venture now to assert that no other way of escape, whether narrow or broad, can be devised but freedom from avarice and a sense of justice—upon this rock our city shall be built; for there ought to be no disputes among citizens about property. . . . [T]hat they should create themselves enmities by their mode of distributing lands and houses would be super-human folly and wickedness.[27]

In the late middle ages, and the Renaissance, social thinkers continued in this tradition. They invested heavily in moral education, legislated against an ostentatious life-style that might provoke the envy of the poor, and, recognizing the special phenomenon of magnatial private power and factionalism, handled it as best they could. Yet, all their wisdom and effort failed to control violence; and this failure contributed to the collapse of constitutional representative government. In exchange for a modicum of efficiency and justice, citizens surrendered what they understood as liberty and became subjects.

The governors of medieval society also failed to solve the problems of human need. Just as they kept the many from participation in government, so did theorists and rulers ignore the desires of the many for a comfortable and satisfying life. The jobs created for the builders of fortresses and walls were insufficient; conditions of want continued to produce criminality and violence. To the tension between order and individuality must be added incipient class antagonisms. The medieval Republic never succeeded in raising public consciousness much above the level of private passions or needs. While perceiving the problem of the passions, it never quite grasped, at least functionally, that crime arises, in Botero's words, from want and necessity.

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27. PLATO, THE LAWS, bk. V, at 304-06 (B. Jowett transl. 1964).