

CRIME AND MENTALITIES IN EARLY MODERN ENGLAND

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Mentalities from crime

The value of criminal records for history is not so much what they uncover about a particular crime as what they reveal about otherwise invisible or opaque realms of human experience.

Muir and Ruggiero, 'Introduction: the crime of history', p. vii.

This is a book about the changing mental world of English people between the mid-sixteenth and mid-eighteenth centuries, and how that world might be reconstructed and understood through the history of crime and criminal justice. As such, it is concerned with crime only in so far as crime allows insights into mentalities, rather than with crime *per se*. Indeed, attention is limited to three specific crimes – witchcraft, coining and murder – the aim being to explore what public and private reactions to these peculiarly significant offences reveal about how our ancestors – mostly ordinary working people – perceived themselves, their social environment and their universe, and, conversely, how these perceptions both reflected and shaped popular beliefs and behaviour over time.

Although, like all excursions into the history of mentalities, these case studies will attract criticism of both purpose and method, it is a central contention that the most one can do is explain what is to be described and how, all the while keeping a careful eye on reasonable limits of interpretation. This introductory chapter, therefore, draws upon a range of historical and anthropological works to define mentalities in general, and indicate what they mean here in particular. From there, four themes of long-term continuity and change are outlined, then linked to the concrete human contexts from which they derive substance and meaning. Finally, the case is made for using crime-related sources to recreate these contexts, with particular reference to the offences specified. In short, this chapter suggests ways in which historians can recover mentalities from crime – patterns of cognition, motivation and behaviour which the passage of time has otherwise concealed from view.

HISTORY FROM WITHIN

Social historians of early modern England have achieved a great deal in the last thirty years. The world we had lost has been regained, extended, and much of it explained. We now understand in detail England's huge expansion and diversification of population and economy in this period, accompanied by momentous shifts in many areas of life: social structure, community, the family, kinship, literacy, religion, labour, poverty and disease to name but a few.¹ Moreover, this history from below has been fully integrated with traditional historical issues; it has matured into a history with the politics put back.² Yet still we lack a proper cultural history; not a study of court manners and high art, nor a history of popular culture in a narrow sense, but a history of social meanings: the way ordinary folk thought about their everyday lives. Research in this area helps to reconnect the world we have regained to the people whose outlook remains obscure, an outlook which influenced, and was influenced by, currents of long-term historical change, but has more often been assumed than demonstrated. We have a history from above, and to this a politicized history from below has been added. Now, in order to further our understanding of ourselves in time, we need to develop a history from *within* – a history of English mentalities.³

The history of mentalities as a discrete concern has progressed further for the Continent than for England. Emmanuel Le Roy Ladurie, Carlo Ginzburg, Robert Darnton, Natalie Zemon Davis and others have built on foundations laid by the generation of the French *Annales* school – notably Johan Huizinga, Fernand Braudel, Lucien Febvre and Marc Bloch – to produce many penetrating insights.⁴ For early modern England the record is less distinguished. Keith Thomas and Lawrence Stone are outstanding in the boldness of their scope and judgement, and other scholars – Michael

¹ The best syntheses are Keith Wrightson, *English society 1580–1680* (London, 1982); J. A. Sharpe, *Early modern England: a social history 1550–1760*, 2nd edn (London, 1997).

² Patrick Collinson, *De republica anglorum: or, history with the politics put back* (Cambridge, 1990). Collinson's recension initiates Keith Wrightson, 'The politics of the parish in early modern England', in Paul Griffiths, Adam Fox and Steve Hindle (eds.), *The experience of authority in early modern England* (Basingstoke, 1996), pp. 10–46.

³ On the need to see people 'at the level of the everyday automatisms of behaviour', see Jacques Le Goff, 'Mentalities: a history of ambiguities', in Jacques Le Goff and Pierre Nora (eds.), *Constructing the past: essays in historical methodology* (Cambridge, 1974), pp. 166–80, quotation at p. 168.

⁴ Stuart Clark, 'The *Annales* historians', in Quentin Skinner (ed.), *The return of grand theory in the human sciences* (Cambridge, 1985), pp. 177–98; Traian Stoianovich, *French historical method: the *Annales* paradigm* (Ithaca, 1976); Peter Burke, 'Reflections on the historical revolution in France: the *Annales* school and British social history', *Review*, 1 (1978), pp. 147–56.

MacDonald and Paul Slack for example – have followed their lead.⁵ Yet comparatively few have addressed English mentalities directly by searching for meanings behind appearances (as might an anthropologist or ethnographer), or connecting their discoveries to a wider mental landscape. This failing is hard to explain, although a clue lies in the fact that *l'histoire des mentalités* has often been viewed as a foreign idea best kept at arm's length, and in a safely untranslated form.⁶ Prominent British historians who *have* shown an active interest in popular thinking – such as E. P. Thompson and Christopher Hill – on the whole have been inspired more by Marx than the *annaliste* pioneers, and, like their French colleagues Michel Vovelle and Michel Foucault, have tended to conceive mentalities as fragmented political ideologies embedded in social structures, relationships and institutions, and accordingly have emphasized forcibly the role of class conflict, subordination and resistance.⁷

One reason for this lack of universal appeal is the difficulty of establishing what mentalities actually are; too many historians either avoid the term (fearing its vagueness), or use it casually as if its definition were self-evident.⁸ There are parallels with the term 'popular culture', the historical validity of which has been questioned ever since Peter Burke's seminal study first appeared in 1978.⁹ Not only has a more advanced understanding of social relations limited what 'popular' can reasonably mean, but 'culture' has expanded prolifically to embrace many aspects of human existence.¹⁰ The problem common to both historical sub-fields is ethereality. Mentalities in particular have no tangible existence and leave only

⁵ Keith Thomas, *Religion and the decline of magic: studies in popular beliefs in sixteenth- and seventeenth-century England* (London, 1971); Lawrence Stone, *The family, sex and marriage in England 1500–1800* (London, 1977); Michael MacDonald, *Mystical bedlam: madness, anxiety and healing in seventeenth-century England* (Cambridge, 1981); Paul Slack, *The impact of plague in Tudor and Stuart England* (Oxford, 1985).

⁶ Peter Burke, 'The history of mentalities in Great Britain', *Tijdschrift voor Geschiedenis*, 93 (1980), pp. 529–30. Lawrence Stone has called the word *mentalité* 'untranslatable, but invaluable': *The past and the present* (London, 1981), p. 154. Barry Reay acknowledges the 'rather un-English' title of his most recent book: *Microhistories: demography, society and culture in rural England, 1800–1930* (Cambridge, 1996), p. 259.

⁷ Burke, 'History of mentalities', pp. 538–9; Michel Vovelle, 'Ideologies and mentalities', in Raphael Samuel and Gareth Stedman Jones (eds.), *Culture, ideology and politics* (London, 1983), pp. 2–11; Michel Foucault, *Power/knowledge: selected interviews and other writings, 1972–1977*, ed. Colin Gordon (Brighton, 1980), pp. 81–7, 117.

⁸ Roy Porter, 'Preface' to Piero Camporesi, *Bread of dreams: food and fantasy in early modern Europe* (Cambridge, 1989), p. 4.

⁹ Peter Burke, *Popular culture in early modern Europe*, 2nd edn (London, 1995). See also Barry Reay (ed.), *Popular culture in seventeenth-century England* (London, 1985).

¹⁰ Tim Harris, 'Problematising popular culture', in Tim Harris (ed.), *Popular culture in England, c.1500–1850* (Basingstoke, 1995), pp. 10–20; Morag Shiach, *Discourse on popular culture: class, gender and history in cultural analysis, 1730 to the present* (Cambridge, 1989), ch. 1; Dominick LaCapra, *History and criticism* (Ithaca, 1985), pp. 72–9.

oblique marks on the written record – faint sounds which barely disturb what Professor Darnton has called ‘the vast silence that has swallowed up most of mankind’s thinking’.¹¹ Scepticism also exists about the need for a history of mentalities at all, especially one where conscious distinctions are made between what our ancestors said and did on the one hand, and what they thought and meant on the other. At a time when the contribution of postmodern relativism to history is increasingly disputed, one wonders whether the quest for popular thinking is worthwhile, even assuming that it is feasible.¹²

And yet the task can be approached more constructively. As Jacques Le Goff has argued, ‘the immediate appeal of the history of mentalities lies in its very imprecision’, for this leads us into historical pastures new.¹³ Mentalities embrace attitudes, ideas, values, sensibilities, identities, passions, emotions, moods and anxieties – universal human characteristics worthy of study not just in themselves but because they have a bearing on historical action and are subject to change over time.¹⁴ To arrive at a more exact definition, one must first confront some taxing conceptual problems. Are mentalities more than what F. W. Maitland once referred to as ‘common thoughts about common things’? Are they best characterized as a structure or a process? Can they be apportioned between élite and popular camps with any degree of confidence? Is it possible to speak of a ‘collective mentality’ as did Febvre, or Richard Cobb’s ‘unwritten collective orthodoxies’, without reducing mentalities to a meaningless lump?¹⁵ Another problem concerns whether one can, or should, impose distinctions between ideas, attitudes and mentalities? To E. P. Thompson ideas were consciously acquired intellectual constructs, whereas attitudes were more diffuse, shifting constantly but often imperceptibly. Similarly, Peter Burke has suggested that ‘to assert the existence of a difference in mentalities between two groups, is to make a much stronger statement than merely asserting a difference in attitudes’.¹⁶

It seems no two historians see mentalities in quite the same way. Peter

¹¹ Robert Darnton, ‘Intellectual and cultural history’, in Michael Kammen (ed.), *The past before us* (London, 1980), p. 343. Cf. Norman Simms, *The humming tree: a study in the history of mentalities* (Urbana and Chicago, 1992), p. 12.

¹² Richard J. Evans, *In defence of history* (London, 1997); Lawrence Stone, ‘History and post-modernism’, *P&P*, 131 (1991), pp. 217–18.

¹³ Jacques Le Goff, ‘Mentalities: a new field for historians’, *Social Science Information*, 13 (1974), p. 81.

¹⁴ Pieter Spierenburg, *The broken spell: a cultural and anthropological history of preindustrial Europe* (London, 1991), p. 2.

¹⁵ Maitland and Cobb quoted in Burke, ‘History of mentalities’, pp. 532, 536.

¹⁶ E. P. Thompson, *The poverty of theory and other essays* (London, 1978), p. 25; E. P. Thompson, *Customs in common* (London, 1991), p. 410; Peter Burke, ‘Strengths and weaknesses of the history of mentalities’, *History of European Ideas*, 7 (1986), p. 439.

Burke makes a distinction between ‘strong’ and ‘weak’ mentalities, the former grand intellectual structures, the latter more prosaic habits of mind – positions which correspond respectively to Bloch’s interest in macrohistorical social structures, and Febvre’s microhistorical psychological and personal concerns.¹⁷ Using this definition, psychology, ethnology and social anthropology have greatly inspired the history of ‘weak’ mentalities by enhancing an awareness of mental and cultural difference and offering ways to understand it.¹⁸ Earlier this century, the anthropologist Lucien Lévy-Bruhl put forward the idea that ‘the primitive mind’ displayed characteristics of a distinct ‘prelogical’ mentality, a revised version of which (one allowing more room for nurture over nature) persuaded Sir Edward Evans-Pritchard not only that it is *how* we think that makes us what we are, but that cultural variation is due more to accumulated experience than to innate psychology. Thus social anthropology was steered away from the *function* of rituals and customs, and towards their *meaning* – a shift in emphasis from society to culture, and, in our terms, from below to within.¹⁹ All cultural historians share in this inherited tradition, and yet precision in defining mentalities remains elusive.

It may be helpful to think of mentalities as a bridge between social history and intellectual history. Recently, historians have deployed phrases such as ‘the social history of beliefs’, ‘a historical anthropology of ideas’, ‘the social history of ideas’, and ‘a cultural anthropology of thought’ – the constituent words seeming almost interchangeable.²⁰ Returning to distinctions between mentalities and ideas, one might see the former as more unarticulated and internalized than the latter which were more expressible and tangible. In his classic work *The cheese and*

¹⁷ Burke, ‘History of mentalities’, p. 530; André Burguière, ‘The fate of the history of *mentalités* in the *Annales*’, *Comparative Studies in Society and History*, 24 (1982), pp. 424–37.

¹⁸ Hans-Ulrich Wehler, ‘Psychoanalysis and history’, *Social Research*, 47 (1980), pp. 519–36; Natalie Z. Davis, ‘Anthropology and history in the 1980s: the possibilities of the past’, *Journal of Interdisciplinary History*, 12 (1981), pp. 267–75; Carlo Ginzburg, ‘Anthropology and history in the 1980s: a comment’, *ibid.*, pp. 277–8. For a sceptical view, see James Fernandez, ‘Historians tell tales: of Cartesian cats and Gallic cockfights’, *JMH*, 60 (1988), pp. 113–27.

¹⁹ Lucien Lévy-Bruhl, *How natives think* (London, 1926; New York, 1966 edn); Ruth Finnegan and Robin Horton, ‘Introduction’, in Robin Horton and Ruth Finnegan (eds.), *Modes of thought: essays on thinking in western and non-western societies* (London, 1973), pp. 13–62 (for a discussion of Evans-Pritchard, see pp. 31–7). For the influence of anthropology on modern understanding of cognition, see Howard Gardner, *The mind’s new science: a history of the cognitive revolution* (New York, 1987).

²⁰ Burke, ‘History of mentalities’, p. 539; Burke, ‘Strengths and weaknesses’, p. 439; Darnton, ‘Intellectual and cultural history’, pp. 327–54; Roy Porter, ‘Introduction’, in Stephen Pumfrey, Paolo L. Rossi and Maurice Slavinski (eds.), *Science, culture and popular belief in Renaissance Europe* (Manchester, 1991), p. 2.

the worms, Carlo Ginzburg is concerned with the ‘inert, obscure, unconscious elements in a given world view’, and so differentiates between ‘mentality’ and what he sees as the greater solidity of ‘culture’.²¹ Perhaps, then, unconsciousness is the key to understanding collective mentalities, defined elsewhere as ‘the root-level structures of thought and feeling that undergird the more complex but superficial formulations of élitist intellectual life’.²² However, mentalities also differ from ideas in that they are not confined to the educated élite, but extend across the social order. Indeed, the ‘weak’ mentalities which Burke attributes to ordinary people include unconscious assumptions and conscious thoughts just like their ‘strong’ counterparts.²³

It is not the intention to get bogged down in semantic preferences, nor to engage in wider debates about sociolinguistics, cultural anthropology and ‘new historicism’. Suffice it to say that historians of mentalities should be concerned with dynamic connections between perception, cognition, motivation and action: what people saw, thought, wanted and did.²⁴ They should also be aware of three problems.²⁵ First, the debt to anthropology carries the difficulty of extracting general truths from specific data; in short, how to advance beyond the anecdotal.²⁶ It is all too easy to construct circular arguments ‘where the only evidence of the mentality postulated is the very data that that postulate is supposed to help us understand’.²⁷ Secondly, it is questionable whether general truths exist anyway. The natural tendency to treat culture as a collective and homogenous entity obscures diversity and the difficulty of accounting for it.²⁸ Thirdly, the problem of cultural homogeneity extends to change as well. That things were different in 1500 and 1800 is far more obvious than the means by

²¹ Roger Chartier, ‘Intellectual history or sociocultural history? The French trajectories’, in Dominick LaCapra and Steven L. Kaplan (eds.), *Modern European intellectual history: reappraisals and new perspectives* (Ithaca, 1982), pp. 13–46, esp. 22–32; Michel Vovelle, *Ideologies and mentalities* (Cambridge, 1990), pp. 6–8; Carlo Ginzburg, *The cheese and the worms: the cosmos of a sixteenth-century miller* (London, 1982), p. xxviii. Cf. Anthony Giddens, *The constitution of society* (Cambridge, 1984), pp. 6–7.

²² Anthony Esler, ‘“The truest community”: social generations as collective mentalities’, *Journal of Political and Military Sociology*, 12 (1984), p. 99.

²³ Burke, ‘History of mentalities’, p. 530.

²⁴ Philip K. Bock, *Rethinking psychological anthropology: continuity and change in the study of human action* (New York, 1980), ch. 1; Michael Cole and Sylvia Scribner, *Culture and thought: a psychological introduction* (New York, 1974), pp. 1–9; Vovelle, ‘Ideologies and mentalities’, p. 11.

²⁵ Summarized in Burke, ‘Strengths and weaknesses’, pp. 443–5.

²⁶ For criticism of this tendency, see Ronald G. Walters, ‘Signs of the times: Clifford Geertz and the historians’, *Social Research*, 47 (1980), pp. 543–4.

²⁷ Quoting G. E. R. Lloyd, *Demystifying mentalities* (Cambridge, 1990), p. 142.

²⁸ *Ibid.*, pp. 135–9; Vovelle, *Ideologies and mentalities*. chs. 4, 9. Robert Darnton defines the problem as ‘distinguishing idiom from individuality’: *The great cat massacre and other episodes in French cultural history* (London, 1984), p. 255.

which to describe and explain that difference.²⁹ As long as the temptation to view history as an inexorable process of modernization is resisted, it is apparent that more people imagine and determine the future according to what they already know, than what they think they might discover. Hence we should be concerned with continuity as much as change, the two overlapping or arranged in parallel.³⁰ The paradox at the heart of the history of mentalities is that the same mental structures which permitted free cultural expression also served to restrict it, with the outcome that all innovation was simultaneously radical and conservative, and all development gradual and unpredictable.³¹

This book offers guidelines not definitive solutions. First, even though we should not *assume* difference between every aspect of our ancestors' thinking and our own, we should at least *expect* it, especially since this otherness – or 'alterity' – is the basis upon which the study of lost cultures rests.³² The second recommendation is this: as difficult as it is to identify specific moments and places of transition, we must none the less remain sensitive to the sluggish imperative of historical change. These two ideals – alterity and transition – are summed up in G. E. R. Lloyd's definition of mentalities as: 'what is held to be distinctive about the thought processes or sets of beliefs of groups or of whole societies, in general or at particular periods of time, and again in describing the changes or transformations that such processes or sets of beliefs are considered to have undergone'.³³

Central here is the need to observe distinctions between universal biological constants and the changing cultural forms through which they are manifested, thereby avoiding Febvre's 'psychological anachronism' – to him 'the worst kind of anachronism, the most insidious and harmful of all'.³⁴ Put simply, mentalities should be expressed according to the ways in which the mind allows human beings to think and feel, but also how

²⁹ Lloyd, *Demystifying mentalities*, p. 139.

³⁰ Michael A. Gismondi, 'The gift of theory': a critique of the *histoire des mentalités*, *Social History*, 10 (1985), pp. 212, 214–15, 226; G. E. R. Lloyd, *Magic, reason and experience: studies in the origin and development of Greek science* (Cambridge, 1979), esp. pp. 264–7; Robin Horton, 'Lévy-Bruhl, Durkheim and the scientific revolution', in Horton and Finnegan (eds.), *Modes of thought*, pp. 249–305.

³¹ Patrick Hutton, 'The history of mentalities: the new map of cultural history', *History and Theory*, 20 (1981), pp. 238–9.

³² Susan Reynolds, 'Social mentalities and the case of medieval scepticism', *TRHS*, 6th series, 1 (1991), pp. 23–4, 40–1; Helmut Bonheim, 'Mentality: the hypothesis of alterity', *Mentalities/Mentalité*, 9 (1994), pp. 1–11; Darnton, *Great cat massacre*, p. 13.

³³ Lloyd, *Demystifying mentalities*, p. 1.

³⁴ Lucien Febvre, *A new kind of history*, ed. Peter Burke (London, 1973), p. 9. On relative and universal aspects of human nature, see Ernest Gellner, *Relativism and the social sciences* (Cambridge, 1985), ch. 3.

language and culture enable these thoughts and feelings to be articulated. Herein lies the seat of consciousness.³⁵

Finally, mentalities are not vague abstracts but dynamic products which were integral to the shaping of historical events and patterns of social, economic and political development, just as popular culture can be rendered more manageable by viewing it as the practical observance of customary rights and usages, and thereby bringing it down to earth.³⁶ We need to study actions over time, and in terms of broad themes spanning the period of structural continuity christened the *longue durée* by the *Annales* historians.³⁷ Four themes have been chosen here: the reformation of religion and public conduct; state formation and administrative innovation; the secularization and desacralization of daily life; and changes in social relationships and cultural identities. Although these themes pervade the entire book, and are addressed in greater detail in chapter 8, what follows is a preliminary sketch of how English mentalities were affected in each instance, together with an explanation for why these changes need to be located historically in solid and dynamic social contexts.

THEMES AND CONTEXTS

The Protestant Reformation was not merely 'a legislative and administrative transaction tidily concluded by a religious settlement in 1559 but a profound cultural revolution' lasting from the 1530s to the mid-seventeenth century.³⁸ The implementation of new doctrine, in particular, affected people's experience of the natural and supernatural worlds. Increased emphasis on the autonomy of God as both author and judge of temporal events bound them into a morally sensitive universe where orthodox prayer was the only permitted means of appeal and appeasement, and the seemingly real presence of the devil loomed correspondingly large, all of which encouraged sinners to see their mortal souls as caught between the ambitions of two great cosmic rivals. Church and state alike concentrated judicial attention on personal conduct, the goal for the most ardent reformers being nothing less than a purified godly commonwealth. The

³⁵ Simms, *Humming tree*, pp. 22–5.

³⁶ Steve Hindle, 'Custom, festival and protest: the Little Budworth Wakes, St Peter's Day, 1596', *Rural History*, 6 (1995), pp. 155–6; Andy Wood, 'The place of custom in plebeian political culture: England, 1550–1800', *Social History*, 22 (1997), pp. 46–60.

³⁷ Fernand Braudel, *On history* (London, 1980), pp. 25–54; Emmanuel Le Roy Ladurie, 'L'histoire immobile', *Annales: ESC*, 29 (1974), pp. 673–92; Vovelle, *Ideologies and mentalities*, chs. 7, 8.

³⁸ Quoting Patrick Collinson, *The religion of Protestants: the Church in English society 1559–1625* (Oxford, 1982), p. 1. For recent literature, see Peter Marshall (ed.), *The impact of the English Reformation 1500–1640* (London, 1997), pp. 1–11.

later seventeenth century saw the frustration of such ambitions, the waning of ecclesiastical authority, and the fragmentation of Protestantism. And yet by 1700 lasting changes can be detected. New understandings of authority permeated daily life, reinforcing social identities which had been shaped by economic and political change, and Protestantism established as the creed of the English, with the power to mobilize the patriotic support of even indifferent Protestants in times of national danger. Fear of Roman Catholics at the time Elizabeth fought Spain, a century later – during the French wars – evolved into fear of Catholic Jacobites and the challenge to the royal succession, and was reflected in the political antipathy between Tories and Whigs. In wider eighteenth-century society, this antipathy corresponded to opposition between high and low churches respectively, although by 1750 the faith of most people had settled into a mild Anglicanism. As a battle for hearts and minds fought throughout the shires and cities of England, then, the Reformation was a revolution not just from above or below but within – a diffuse transformation of the social psychology of a nation.

The symbiosis of religious and secular ideology made the expansion of the state appear divinely orchestrated and sanctioned at every turn. Among the primary ambitions of government were the suppression of disorder – whether rebelliousness in the nobility or pugnacity in the lower orders – and a corresponding monopolization of violence in the form of ritualized public punishment. More generally, state-building relied on the centralization of law and judicial practice, and the uniform implementation of authority in even the darkest corners of the land. A lasting solution was found in the Tudor innovation of ‘stacks of statutes’ heaped upon justices of the peace, their work augmented by other amateur officers – constables, sheriffs, coroners, jurors, churchwardens – whose power was based on social rank as much as royal authority. Nor were these changes foisted upon an entirely reluctant populace. By 1650 a popular legal culture was thriving in England, indicating that the state ‘was manifested not only as an agency for initiatives of control and coercion, but as a resource for the settlement of dispute’ which positioned itself and the community ‘on a continuum of interest and identity’.³⁹ By this time, the agencies of law routinely tackled onerous social problems, notably urban poverty, and the state grew in size and complexity as a consequence. The financial revolution of the 1690s allowed the creation of a military-fiscal state able to wage sustained international warfare, and a burgeoning bureaucracy which marginalized the Crown. Class identity complemented identity derived

³⁹ Quoting Steve Hindle, ‘Aspects of the relationship of the state and local society in early modern England: with special reference to Cheshire, c.1590–1630’, Ph.D. thesis, Cambridge University, 1992, pp. 28–9.

from the nation-state. By 1700, bourgeois participation in public life extended beyond office-holding to the exchange of opinions and ideas within an urban sphere of news, debate and political mobilization. Through such changes, England's sense of itself as a realm opened up and expanded in this period, not just at the centre of government, but, in different ways and to varying extents, in the mentalities of people throughout the land and across the social order.

A parallel development to the enforcement of orthodox religion, and the growth of sanctified state power, was, ironically, the secularization of society. This was not a decline of religion however; rather the Reformation encouraged the separation of the holy and the profane – ideas, roles, rituals and physical spaces – which in conjunction with the capitalization of the market, prolific urbanization, technological progress, and spreading popular literacy, encouraged the retreat of the sacred from daily life. This was arguably the greatest revolution in mentalities in the early modern period. In the Middle Ages, a powerful sense of the spiritual and sacred had pervaded daily life, and an acceptance of liturgical mystique had taken precedence over an understanding of doctrine. The Reformation, by contrast, fostered a more enquiring individualism, which came to be experienced by many people as a limited intellectual empowerment. Popular literacy, given initial impetus by a bibliocentric religion, helped adjust a traditionally passive outlook through broader and more objective thinking and the means to express it. In turn, the extension of knowledge made the world seem larger and yet more mentally encompassable. Partly as a consequence, by 1750 direct providential and diabolic agency had become more abstract and internalized in popular consciousness, matched by a growing awareness of human potential at all social levels. Moreover, improved conditions of life (the threat of plague had been banished by the 1720s) transformed people's perceptions of their place in a divinely ordered cosmology. Medieval ways of looking at the world survived, but not intact. In private belief as well as public conversation, discussion and doubt displaced absolute truths in the eighteenth century, and new ways of categorizing and exploiting the world were forged to the extent that 'quite humble men and women, innocent of philosophical theory, began to be fascinated not only by nature but also by the manipulation of nature'.⁴⁰

The origins of all these changes were in some way economic. Huge population growth from the 1520s led to inflation and unemployment which drove migrants across the country, especially into the towns where,

⁴⁰ Quoting J. H. Plumb, 'The commercialization of leisure in eighteenth-century England', in Neil McKendrick, John Brewer and J. H. Plumb (eds.), *The birth of a consumer society: the commercialization of eighteenth-century England* (London, 1982), p. 316.

as a result, levels of mortality were highest. Inflation also affected land-owners who changed the use of their land and the terms of its tenure, either to counter inflation or to exploit it for financial gain. Resulting social conflict further strained vertical social bonds of deference and patronage already weakened by the forced exodus of small tenant farmers from the land. A crucial outcome was that relationships between high and low became based less on custom and oral tradition than on the wage-nexus and the market. Among the winners stood a rising gentry, the source of whose identity shifted from military service to membership of civil society, and in the towns a professional class which grew with the demand for services, especially medicine and the law. Literacy, like capitalism, tended to reinforce traditional social differences more than it transformed them, but did offer opportunities to those who worked hard and were lucky. Then there were the losers. Developing manufacture and rural capitalism empowered some of the poor, but also led to poverty on an unprecedented scale, necessitating the institutionalization of charity. In an expanding market economy, traditional female roles were also affected, attracting increased religious and moral control overseen mostly by officers recruited from pious and ambitious sections of what we have learned to recognize as 'the middling sort of people'. The gap between winners and losers was further widened by the desire of landowning gentry and aristocracy to congregate and consume in urban settings far away from their unlettered neighbours with their rude manners and pastimes – a social and geographical distance which, by 1750, may well have amounted to a 'division of cultures'. According to Peter Burke, 'it was not simply the popular festival that the upper classes were rejecting, but also the popular world-view, as the examination of changing attitudes to medicine, prophecy and witchcraft may help to show'.⁴¹

Implicit in this last statement is the desirability of a specific focus when faced with the impossible task of actively demonstrating early modern mentalities using the lofty perspectives of continuity and change which have been outlined. Nor for our purpose could we successfully examine the histories of medicine, prophecy and witchcraft in an over-arching way. Instead, it is preferable to investigate, at a more intimate social level, the highly varied and contingent ways in which ordinary early modern people thought, behaved and communicated day-to-day. Only then can we hope to recover the meanings they may have intended for their words and actions, and the meanings they may have inferred from the words and actions of others. In particular, historians of mentalities need to ask how life experiences were perceived, and how norms, attitudes, beliefs and ideas were

⁴¹ Burke, *Popular culture*, p. 273.

articulated, affirmed and adapted within the real-life contexts of household, neighbourhood, community and wider society.

One reason why early modern thinking is difficult to grasp is that we cannot avoid using words and ideas – particularly categories – by which we ourselves order our own experience.⁴² As Keith Thomas has pointed out, by its very nature cultural history combines ‘emic’ with ‘etic’ approaches: respectively, restricting oneself to contemporary frames of reference, and cross-cultural comparisons drawing upon hindsight.⁴³ Some historians have been criticized for neglecting the emic to produce ‘present-centred’ images of the past.⁴⁴ For example, early modern religion and magic have sometimes been divided too starkly, when in fact ‘boundaries between the real and unreal, possible and impossible, sacred and profane, abstract and concrete, holy and cursed, purity and filth, and indecency and sublimity are extremely fleeting and uncertain’.⁴⁵ The observation that the term ‘atheist’ may not have meant the same to our ancestors as to ourselves, led the arch-relativist Febvre to ask: ‘do we not substitute our thoughts for theirs, and give their words meaning that was not in their minds?’⁴⁶ Likewise, in order to decode Rabelais, the Russian critic Mikhail Bakhtin familiarized himself with the original terms of an author too often ‘read through the eyes of new ages’.⁴⁷ Historians always risk tripping over language, modernizing the meanings of the past in line with their own mentalities, and that is why, according to Professor Thomas, they should at least *begin* studying a given historical topic with an eye for the emic.⁴⁸

Conversely, Febvre and Bakhtin were concerned with more than just avoiding anachronism; rather they actively exploited the opportunities

⁴² Maurice Bloch, ‘The past and the present in the present’, *Man*, new series, 12 (1977), pp. 278–92; William Empson, *The structure of complex words* (London, 1951; 1995 edn), pp. 381–2; J. D. Y. Peel, ‘Understanding alien belief-systems’, *British Journal of Sociology*, 20 (1969), pp. 69–84; C. R. Hallpike, *The foundations of primitive thought* (Oxford, 1979), pp. vii–viii.

⁴³ Keith Thomas, ‘Ways of doing cultural history’, in Rik Sanders *et al.* (eds.), *Balans en Perspectief van de Nederlandse Cultuurgeschiedenis* (Amsterdam, 1991), pp. 77–8.

⁴⁴ T. G. Ashplant and Adrian Wilson, ‘Present-centred history and the problem of historical knowledge’, *HJ*, 31 (1988), pp. 253–74; Peter Burke, ‘Reflections on the origins of cultural history’, in Joan H. Pittock and Andrew Wear (eds.), *Interpretation and cultural history* (London, 1991), pp. 5–24.

⁴⁵ Quoting Camporesi, *Bread of dreams*, pp. 22–3. Cf. A. J. Gurevich, *Categories of medieval culture* (London, 1985), ch. 1.

⁴⁶ G. E. Aylmer, ‘Unbelief in seventeenth-century England’, in Donald Pennington and Keith Thomas (eds.), *Puritans and revolutionaries: essays in seventeenth-century history presented to Christopher Hill* (Oxford, 1978), pp. 22–46; Michael Hunter, ‘The problem of “atheism” in early modern England’, *TRHS*, 5th series, 35 (1985), pp. 135–57; Lucien Febvre, *The problem of unbelief in the sixteenth century: the religion of Rabelais* (Cambridge, Mass., 1982), quotation at p. 11.

⁴⁷ Mikhail Bakhtin, *Rabelais and his world* (Cambridge, Mass., 1968), p. 58.

⁴⁸ Thomas, ‘Ways of doing cultural history’, p. 78.

offered by shifting meanings to recover past mentalities. We take certain categories for granted because we are habituated to their use; but inevitably they change, and thus offer clues to the evolution of thinking. Boundaries between dualisms or oppositions are particularly instructive.⁴⁹ For example, whereas to most western people today dreams are natural products of sleep, it was once reasonable to suppose their origin to be divine or diabolic, or even to view them as real events in which the soul behaved as a separable component of the self. Hence the line dividing natural and supernatural has shifted over time; one might even say that dreams have been secularized.⁵⁰ Similar examples include the boundaries separating news from fiction, and myth from history.⁵¹ On the face of it, this altered logic would seem an endless hindrance to our understanding; and yet many inconsistencies and contradictions disappear if one imagines a 'third truth value', a designation transcending literalness and the divide between fact and fiction, usually via the medium of what we would call symbols. In fact, it made perfect sense for our ancestors to hold simultaneously what Lévy-Bruhl called 'two incompatible certainties' because this enabled them to construct a more complex reality, extending the realm of the possible whenever and wherever material opportunities were limited.⁵² Entering the world of dreams in order to reveal the unknown, or tapping supernatural power to tackle misfortune, are good examples. Early modern thinking was not always organized according to clear propositions, and modes of communication formed diverse, loose patterns, drawing promiscuously upon a wide range of ideas and commonplaces.⁵³ Most modern symbols and rituals have at best an ambiguous relationship with reality, offering open-ended interpretations of meaning; in early modern minds, however, they could assert more solid truths without conceit or deceit, and expose directly what E. P. Thompson called 'the ulterior cognitive system of the community'.⁵⁴

⁴⁹ Lennard J. Davis, *Factual fictions: the origins of the English novel* (New York, 1983), pp. 8–10; Darnton, *Great cat massacre*, pp. 186–7. See also Claude Lévi-Strauss, *The raw and the cooked: an introduction to a science of mythology* (London, 1970).

⁵⁰ E. R. Dodds, *The Greeks and the irrational* (Berkeley, 1951), ch. 4; Lucien Lévy-Bruhl, *Primitive mentality* (London, 1923), ch. 3; Steven F. Kruger, *Dreaming in the Middle Ages* (Cambridge, 1992), ch. 6; S. R. F. Price, 'The future of dreams: from Freud to Artemidorus', *P&P*, 113 (1986), pp. 3–37.

⁵¹ Febvre, *Problem of unbelief*, pp. 385–400, 414–18.

⁵² Steven Lukes, 'On the social determination of truth', in Horton and Finnegan (eds.), *Modes of thought*, pp. 230–48; Barry Barnes, 'The comparison of belief-systems: anomaly versus falsehood', *ibid.*, pp. 182–3; David E. Cooper, 'Alternative logic in "primitive thought"', *Man*, new series, 10 (1975), pp. 238–56; M. Lewis, 'Introduction', in Ioan Lewis (ed.), *Symbols and sentiments: cross-cultural studies in symbolism* (London, 1977), pp. 1–24; Lucien Lévy-Bruhl, *The notebooks on primitive mentality* (London, 1949; Oxford, 1975 edn), pp. 6–7, 51–3, 63–4, 71, quotation at p. 6.

⁵³ Le Goff, 'Mentalities: a new field for historians', p. 85.

⁵⁴ Robert Darnton, 'The symbolic element in history', *JMH*, 58 (1986), pp. 218–34; Hallpike,

Rather than trying to capture ideas, we should explore the interactions between discourses and the historical actors participating in them; only then can we see the early modern world as something *subjectively represented* by its inhabitants, rather than *objectively defined*.⁵⁵ Just as culture is a practical resource used by the people to whom it belongs, mentalities and society are dialectical: ‘the mind and the world jointly make up the mind and the world’, as Hilary Putnam has put it.⁵⁶ This is why we need to recreate what Professor Lloyd has termed ‘social contexts of communication’, defined as ‘the nature and styles of interpersonal exchanges or confrontations, the availability and use of explicit concepts of linguistic and other categories in which the actors’ self-representations are conveyed’. He suggests that ideas have no absolute meaning outside the historical contexts in which they were articulated, and that contrasting discourses – notably science, religion and magic – can co-exist comfortably within these contexts.⁵⁷ Mentalities are fluid then, generating what have been called ‘multiple orderings of reality’, situated on a continuum of different but related ways of understanding the world and one’s place within it.⁵⁸ Closely associated with this model is the idea that belief and meaning in science change subtly and variously, producing gradual ‘paradigm shifts’ rather than dramatic revolutions in understanding.⁵⁹

Foundations of primitive thought, ch. 4; Gurevich, *Categories of medieval culture*, pp. 292–4; E. P. Thompson, ‘History and anthropology’, in *Persons and polemics: historical essays* (London, 1994), p. 217. For a critique of Darnton’s approach, see Roger Chartier, ‘Texts, symbols and Frenchness’, *JMH*, 57 (1985), pp. 682–95; Dominick LaCapra, ‘Chartier, Darnton and the great symbol massacre’, *JMH*, 60 (1988), pp. 95–112.

⁵⁵ Paraphrasing Roger Chartier, *Cultural history: between practices and representations* (Cambridge, 1988), p. 14. Cf. Peter L. Berger and Thomas Luckman, *The social construction of reality* (London, 1967), chs. 1, 3.

⁵⁶ Jonathan Barry and Joseph Melling, ‘The problem of culture: an introduction’, in Joseph Melling and Jonathan Barry (eds.), *Culture in history: production, consumption and values in historical perspective* (Exeter, 1992), pp. 4–5; Aletta Biersack, ‘Local knowledge, local history: Geertz and beyond’, in Lynn Hunt (ed.), *The new cultural history* (Berkeley, 1989), pp. 72–96; Marshall Sahlins, *Islands of history* (London, 1987); Hilary Putnam, *Reason, truth and history* (Cambridge, 1981), p. xi.

⁵⁷ Lloyd, *Demystifying mentalities*, p. 13; David Zaret, ‘Religion, science and printing in the public spheres in seventeenth-century England’, in Craig Calhoun (ed.), *Habermas and the public sphere* (Cambridge, Mass., 1992), pp. 212–35. Cf. Jack Goody, *The domestication of the savage mind* (Cambridge, 1977), esp. ch. 3; Rodney Needham, *Belief, language and experience* (Oxford, 1972), chs. 2–3.

⁵⁸ Stanley Jeyaraja Tambiah, *Magic, science, religion, and the scope of rationality* (Cambridge, 1990), ch. 5. Cf. Barnes, ‘Comparison of belief-systems’, p. 198. On the compatibility of scientific traditions, see Brian Vickers, ‘Introduction’, in Brian Vickers (ed.), *Occult and scientific mentalities in the Renaissance* (Cambridge, 1984), pp. 1–55.

⁵⁹ Thomas S. Kuhn, *The structure of scientific revolutions*, 2nd edn (Chicago, 1977). Cf. Bruno Latour, *Science in action: how to follow scientists and engineers through society* (Cambridge, Mass., 1987), pp. 7, 13.

Just as the history of science no longer relies solely on key textual artefacts to deduce the meaning of scientific ideas, to put Professor Lloyd's idea into practice we need to examine the institutions and identities which bound individuals into society.⁶⁰ Borrowing a term coined by the philosopher Gilbert Ryle, the anthropologist Clifford Geertz has called this approach 'thick description' – returning words and actions to the 'structures of signification' whence they originated.⁶¹ (More than one historian has been criticized for transferring archival material to card indexes, thus isolating it from its true significance.⁶²) And yet Febvre's insistence that observable data be reconnected to mental processes 'to reconstitute the whole physical, intellectual and moral universe' is surely too grand an ideal.⁶³ Instead, we need to concentrate on smaller contexts of lived experience at the heart of early modern society: the market-place, workshop, parish church, courtroom, ale-bench, winter fireside, birthing-chamber and so on. 'The real difficulty of primitive thought', according to C. R. Hallpike, 'is that so much of it is expressed in action and concrete symbolism and encapsulated in social institutions and customs – that it is, in short, inarticulate'.⁶⁴ Indeed, only a small number of humble people in the sixteenth and seventeenth centuries immortalized their thoughts in letters, diaries, and commonplace books. The thinking of the majority is usually only apparent in their recorded behaviour.

And yet extracting thinking from behaviour may be the best approach after all. Bakhtin treated the festival of Carnival not as theory, but solely as a form of participation on the grounds that 'its very idea embraces all the people', producing 'concrete material in which folk tradition is collected, concentrated, and artistically rendered'.⁶⁵ As such, attempting to recover abstract ideas from the lives of illiterate people might be inappropriate as well as impossible. Piero Camporesi sees early modern Italian herdsmen as having possessed 'a practical knowledge and pragmatic empiricism with

⁶⁰ Norman Simms, 'An editorial', *Mentalities/Mentalités*, 1 (1982), p. 3; Vovelle, *Ideologies and mentalities*, ch. 6; Donald R. Kelley, 'What is happening to the history of ideas?', *Journal of the History of Ideas*, 51 (1990), pp. 3–25, esp. pp. 21–4; Quentin Skinner, 'Introduction: the return of grand theory', in Skinner (ed.), *Return of grand theory*, pp. 3–20; David A. Hollinger, 'T. S. Kuhn's theory of science and its implications for history', *American Historical Review*, 78 (1973), pp. 370–93.

⁶¹ Clifford Geertz, *The interpretation of cultures* (New York, 1973), pp. 3–30.

⁶² E. P. Thompson, 'Anthropology and the discipline of historical context', *Midland History*, 1 (1972), pp. 41–55; Leonard E. Boyle, 'Montaillou revisited: *mentalité* and methodology', in J. A. Raftis (ed.), *Pathways to medieval peasants* (Toronto, 1981), pp. 119–40; C. J. Calhoun, 'History, anthropology and the study of communities: some problems in Macfarlane's proposal', *Social History*, 3 (1977), pp. 363–73.

⁶³ Febvre, *A new kind of history*, p. 9.

⁶⁴ Quoting Hallpike, *Foundations of primitive thought*, p. 64.

⁶⁵ Bakhtin, *Rabelais and his world*, pp. 7, 58. On participation, see also Lévy-Bruhl, *Notebooks on primitive mentality*, pp. 1–3.

little reference to any other cognitive system';⁶⁶ and of eighteenth-century France, Professor Darnton said that 'the mental world of its inhabitants did not extend very far beyond the boundaries of their social world'.⁶⁷ Third-truth values and multiple meanings aside, the stark reality of daily life was always supreme because it needed no additional verification, and was perceived according to basic common-sense as much as it was shaped in the moulds of acquired culture.⁶⁸ Our ancestors, however humble, were perfectly able to form judgements and make decisions according to their own individual rationales – a fact recognized by the anthropologist Pierre Bourdieu in his concept of 'habitus': a lived environment which shapes and limits behaviour, but can never wholly determine it.⁶⁹ Hence to understand the thinking of ordinary people in terms of practical action, far from comparing it unfavourably to its learned counterpart, may actually elevate it by seeking to appreciate it, emically, on its own authentic terms.⁷⁰

We require a dynamic human activity which allows mentalities to be expressed in terms of contexts of communication, thus offering original insights into our four themes of continuity and change. For this, we need to think obliquely, salvaging ideas from the least consciously intellectual aspects of culture, and dissecting artefacts the significance of which may not have been apparent to contemporaries. As long as we mind the potential pitfalls involved with inferring the general from the particular, the microhistorical approach is appropriate.⁷¹ In fact, this book ranges more widely (albeit superficially) than conventional microhistories; and yet the central objective of extracting meaning from small details remains the same. The specific concern on this occasion is neither a place nor an event, but a single area of life, and in recent years subjects as diverse as ordeals, commerce, death, food, gestures and monsters have been employed to this end.⁷² Here the focus is crime, and the remainder of this chapter is devoted to exploring its historical uses.

⁶⁶ Piero Camporesi, *The anatomy of the senses: natural symbols in medieval and early modern Italy* (Cambridge, 1994), p. 188, and see also ch. 8 on 'retarded knowledge'.

⁶⁷ Robert Darnton, 'In search of the Enlightenment: recent attempts to create a social history of ideas', *JMH*, 43 (1971), pp. 122–3.

⁶⁸ Febvre, *Problem of unbelief*, pp. 463–4; Reynolds, 'Social mentalities', p. 30; Finnegan and Horton, 'Introduction', pp. 37–8.

⁶⁹ Gismondi, 'Gift of theory', p. 230; Pierre Bourdieu, *Outline of a theory of practice* (Cambridge, 1977), ch. 2. For a note of caution, see Reinhart Koselleck, 'Some reflections on the temporal structure of conceptual change', in Willem Melching and Wyger Velema (eds.), *Main trends in cultural history* (Amsterdam, 1994), pp. 7–16.

⁷⁰ Darnton, *Great cat massacre*, p. 12.

⁷¹ Edward Muir and Guido Ruggiero (eds.), *Microhistory and the lost peoples of Europe* (Baltimore, 1991), Introduction; Giovanni Levi, 'On microhistory', in Peter Burke (ed.), *New perspectives on historical writing* (Cambridge, 1991), pp. 93–113; Reay, *Microhistories*, ch. 9.

⁷² Robert Bartlett, *Trial by fire: the medieval judicial ordeal* (Oxford, 1986); D. A. Rabuzzi,

HISTORY AND CRIME

The history of crime and criminal justice has been an issue of central importance in the social history of early modern England for over twenty years. Since the pioneering work of E. P. Thompson, J. S. Cockburn and others, a generation of historians has investigated the legal archives so that we now have a more detailed account of criminal prosecution than once seemed possible. Numerous monographs cover offences and their incidence; others attempt definitions of crime, deviance and sin, or investigate disorder; and legal procedure, judicial decision-making and punishment have all been thoroughly explored as well.⁷³ One striking feature of the historiography has been the degree of consensus which has emerged, and on the face of it there may seem little left to say. Yet there is a major gap in our knowledge. We have widespread agreement on *how* the criminal law operated; the larger problem of *why* it operated as it did remains open to debate. Central here is the question of what the law actually meant. Tim Curtis once suggested that ‘radical changes in crime patterns are best explained by changes of attitude within groups’; but the attitudes upon which such interpretative differences depend have more often been inferred than investigated directly.⁷⁴ Again, as with other areas of early modern social history, we still lack a history from within – a history of mentalities –

‘Eighteenth-century commercial mentalities as reflected and projected in business handbooks’, *Eighteenth Century Studies*, 29 (1995), pp. 169–89; Philippe Ariès, *The hour of our death* (London, 1981); Piero Camporesi, *The magic harvest: food, folklore and society* (Cambridge, 1993); Jan Bremmer and Herman Roodenburg (eds.), *A cultural history of gesture from antiquity to the present day* (Cambridge, 1991); Kathryn M. Brammall, ‘Monstrous metamorphosis: nature, morality, and the rhetoric of monstrosity in Tudor England’, *Sixteenth Century Journal*, 27 (1996), pp. 3–21; Katharine Park and Lorraine J. Daston, ‘Unnatural conceptions: the study of monsters in sixteenth- and seventeenth-century France and England’, *P&P*, 92 (1981), pp. 20–54.

⁷³ See J. A. Sharpe, ‘The history of crime in late medieval and early modern Europe: a review of the field’, *Social History*, 7 (1982), pp. 187–203; Douglas Hay, ‘The criminal prosecution in England and its historians’, *Modern Law Review*, 47 (1984), pp. 1–29; Anthony Fletcher and John Stevenson (eds.), *Order and disorder in early modern England* (Cambridge, 1985), pp. 15–26; Joanna Innes and John Styles, ‘The crime wave: recent writing on crime and criminal justice in eighteenth-century England’, in Adrian Wilson (ed.), *Rethinking social history: English society 1570–1920 and its interpretation* (Manchester, 1993), pp. 201–65; John L. McMullan, ‘Crime, law and order in early modern England’, *British Journal of Criminology*, 27 (1987), pp. 252–74; Malcolm Gaskill, ‘New directions in the history of crime and the law in early modern England: a review article’, *CJH* (forthcoming).

⁷⁴ T. C. Curtis, ‘Explaining crime in early modern England’, *CJH*, 1 (1980), p. 130. On attitudes, see also Pieter Spierenburg, ‘Theory and the history of criminal justice’, in Louis A. Knafla (ed.), *Crime and criminal justice in Europe and Canada* (Ontario, 1981), p. 322; M. J. Gaskill, ‘Attitudes to crime in early modern England: with special reference to witchcraft, coining and murder’, Ph.D. thesis, Cambridge University, 1994, ch. 1.

and so need to see what crime and the law meant on their own terms using social contexts of communication.⁷⁵

Conversely, crime offers a way into mentalities in that its records shed light not just on criminal justice, but hidden realms of experience.⁷⁶ It is true that most people were never tried for a crime, and that it is therefore dangerous to make 'ordinary, everyday assumptions on the basis of the records of what were extraordinary events in the lives of the accused'.⁷⁷ And yet, as the anthropologist Claude Lévi-Strauss insisted, 'cultures encode properties by imagining their transgressions'; and because records of crimes, crises and conflicts reveal dynamic interaction between governors and governed, they can also reveal society's core values. 'It is a populism with its symbols reversed,' Carlo Ginzburg has said of crime, 'a "black" populism – but populism just the same'.⁷⁸ It was for this reason that Emmanuel Ladrerie compared an uprising in the years 1579–80 with the geological structure of the Grand Canyon, in that the former cut a slice through the social and cultural strata of sixteenth-century France.⁷⁹ With these ends in mind, at least three areas of crime deserve attention: first, the use of religious ideology to communicate ideas about the law;⁸⁰ secondly, discretionary legal judgements based on morality, and the need to balance local and central interests;⁸¹ and, finally, the extent to which the law served

⁷⁵ Cf. Robert Shoemaker, *Prosecution and punishment: petty crime and the law in London and rural Middlesex, c. 1660–1725* (Cambridge, 1991), pp. 4–5, 18.

⁷⁶ The following discussion complements Edward Muir and Guido Ruggiero, 'Introduction: the crime of history', in Edward Muir and Guido Ruggiero (eds.), *History from crime: selections from Quaderni Storici* (Baltimore, 1994), pp. i–xviii. See also Pieter Spierenburg, 'Justice and the mental world: twelve years of research and interpretation of criminal justice data from the perspective of the history of mentalities', *IAHCCJ Bulletin*, 14 (1991), pp. 38–79; Robert Darnton, 'The history of *mentalités*; recent writings on revolution, criminality, and death in France', in Richard Harvey Brown and Stanford M. Lyman (eds.), *Structure, consciousness and history* (Cambridge, 1978), pp. 114–15; Le Goff, 'Mentalities: a history of ambiguities', pp. 168, 174.

⁷⁷ Quoting Peter Burke, 'Overture: the new history, its past and its future', in Burke (ed.), *New perspectives*, p. 12; James Obelkevich, 'Proverbs and social history', in Peter Burke and Roy Porter (eds.), *The social history of language* (Cambridge, 1987), p. 43.

⁷⁸ James Boon, 'Claude Lévi-Strauss', in Skinner (ed.) *Return of grand theory*, p. 165; Ginzburg, *Cheese and the worms*, p. xviii. See also Simms, *Humming tree*, p. 33.

⁷⁹ Emmanuel Le Roy Ladurie, *Carnival at Romans: a people's uprising at Romans 1579–80* (London, 1980), p. 339.

⁸⁰ Richard Cust and Peter G. Lake, 'Sir Richard Grosvenor and the rhetoric of magistracy', *BHR*, 54 (1981), pp. 40–53; Randall McGowen, '"He beareth not the sword in vain": religion and the criminal law in eighteenth-century England', *Eighteenth Century Studies*, 21 (1987–8), pp. 192–211; J. A. Sharpe, '"Last dying speeches": religion, ideology and public execution in seventeenth-century England', *P&P*, 107 (1985), pp. 144–67.

⁸¹ Cynthia B. Herrup, 'Law and morality in seventeenth-century England', *P&P*, 106 (1985), pp. 102–23; Keith Wrightson, 'Two concepts of order: justices, constables and jurymen in seventeenth-century England', in John Brewer and John Styles (eds.), *An ungovernable people: the English and their law in the seventeenth and eighteenth centuries* (London, 1980), pp. 21–46; Joan R. Kent, *The English village constable 1580–1642: a social and*

the people or protected élite authority through deference and fear.⁸² The common theme here is power, and for this reason the history of crime epitomizes history with the politics put back. Even so, interpretative models which are structured too rigidly according to social polarization not only disguise complexity and ambiguity, but exaggerate artificial periodization and change. Indeed, the arbitrary and habitually imposed divide between the history of seventeenth- and eighteenth-century England is nowhere more marked than where crime and the law are concerned.

Crime is also useful because it has left many records which facilitate the thick description of social contexts. In the 1970s, when the history of crime emerged as a distinct subfield, the main challenge for new researchers was how to construct statistical profiles of prosecution. By contrast, this book shifts the emphasis away from quantitative evidence and exposition, with a view to demonstrating that a variety of sources can be used creatively to compose a qualitative picture of early modern criminal justice which does not depend upon counting and analyzing indictments.⁸³ In a way which hopefully is unobtrusive, archival material has been organized into three levels of representation, each constructing a different sort of reality. First, we have normative sources such as statutes, proclamations, orders and sermons, all of which reflect cherished ideals of political and religious orthodoxy – the way things were *supposed* to be. Beneath this we have more impressionistic sources: literary accounts, broadsides, ballads, news-sheets, diaries and letters, broadly suggesting how things *seemed* to contemporaries. Finally, the third level comprises mainly administrative sources, which best reflect the input of ordinary people, and perhaps the way things really *were*. This is a very loose model, but can help to conceptualize contemporary perceptions and experiences in terms of contexts of communication and their inter-relationships.

The most valuable administrative documents are assize depositions – the informations and examinations of plaintiffs, witnesses and defendants – which provide a more detailed background for the offences recorded in

administrative study (Oxford, 1986); J. S. Cockburn, 'Trial by the book? Fact and theory in the criminal process 1558–1625', in J. H. Baker (ed.), *Legal records and the historian* (London, 1978), p. 60; J. M. Beattie, *Crime and the courts in England 1660–1800* (Oxford, 1986), ch. 8.

⁸² Douglas Hay, 'Property, authority and the criminal law', in Douglas Hay *et al.* (eds.), *Albion's fatal tree: crime and society in eighteenth-century England* (London, 1975), pp. 17–63; E. P. Thompson, *Whigs and hunters: the origin of the Black Act* (London, 1975); John H. Langbein, 'Albion's fatal flaws', *P&P*, 98 (1983), pp. 96–120; John Brewer and John Styles, 'Introduction', in Brewer and Styles (eds.), *An ungovernable people*, p. 20; Peter King, 'Decision-makers and decision-making in the English criminal law 1750–1800', *HJ*, 27 (1984), pp. 25–58.

⁸³ E. P. Thompson thought that historians should always ask 'what is the significance of the form of behaviour which we have been trying to count?': *Customs in common*, p. 416.

indictments and recognizances. From 1555, JPs were obliged by statute to make examinations in cases of suspected felony, and certify the record to the trial court.⁸⁴ The assize depositions which this administrative procedure generated provide a wealth of information about the routine mechanisms which were activated when crime was detected, and help us to understand the responsibilities and priorities which underpinned these activities. The problem is that although JPs sometimes wrote interrogatories for their own guidance, they did not follow formal rules on collecting evidence or its legal application. More diligent JPs might consult Michael Dalton's *Country justice* but were by no means obliged to do so. In fact, in accordance with the Marian bail and committal legislation, even Dalton advised that once a JP had heard testimony, only 'so much thereof, as shalbe materiall to prove the felony, he shal put in writing within two daies after the examination'.⁸⁵ As a consequence 'depositions vary in quality, according to the conscientiousness of the examining justices, from full and lengthy descriptions of crimes to the scantiest details'.⁸⁶ By contrast, continental inquisitors compiled comprehensive dossiers – a contrast which may also explain the imbalance in work on European and English mentalities, especially since so many European studies are based on court records.

Recovering mentalities from crime requires historians to cross boundaries. Another problem bequeathed by accusatorial justice is that depositions never became formal records and so were usually destroyed. Few sixteenth-century examples remain, and a disproportionate amount of what exists thereafter post-dates 1650, and comes mostly from the Northern Circuit.⁸⁷ In addition, the archives of the palatinates of Lancaster, Durham and Ely contain interesting material, and oddments survive from other circuits, and the archives of quarter sessions and borough courts.⁸⁸ A

⁸⁴ 1&2 Ph. & Mar. c. 13 (1554–5); 2&3 Ph. & Mar. c. 10 (1555); 1&2 Ph. & Mar. c. 13 (1554–5). See also John H. Langbein, *Prosecuting crime in the Renaissance: England, Germany, France* (Harvard, 1974), ch. 1; Cynthia B. Herrup, *The common peace: participation and the criminal law in seventeenth-century England* (Cambridge, 1987), pp. 85–91; J. H. Gleason, *The justices of the peace in England 1558 to 1640* (Oxford, 1969), chs. 5–6; Thomas G. Barnes, 'Examination before a justice in the seventeenth century', *Notes & Queries for Somerset and Dorset*, 27 (1955), pp. 39–42.

⁸⁵ Michael Dalton, *The country justice* (London, 1622), p. 269, unchanged in the 1746 edition, p. 377.

⁸⁶ Quoting J. A. Sharpe, *Crime in seventeenth-century England: a county study* (Cambridge, 1983), p. 12.

⁸⁷ J. S. Cockburn, 'The Northern assize circuit', *Northern History*, 3 (1968), pp. 118–30; J. Raine (ed.), *Depositions from the castle of York, relating to offences committed in the northern counties in the seventeenth century*, Surtees Society, 40 (1861). The depositions consulted span the years 1640–99 and 1704–48 in a broken sequence, and originate in Yorkshire, Westmorland, Cumberland and Northumberland.

⁸⁸ PRO, PL 27/1–3 (1663–1748); DURH 17/1–3 (1674–1729); CUL, EDR E6–37 (1605–14, 1616–39, 1642–75, 1696–1714, 1716–52). Cases were also found in the