

**Innocence on trial:
The courts and sexual violence
against children in Florence,
1786 to 1914**

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Abbreviations

ASF	Archivio di Stato, Firenze
STG	Supremo Tribunale di Giustizia
TPIC	Tribunale di Prima Istanza, sezione correzionale
RC	Ruota Criminale, 1814–1838
TCPI	Tribunale Collegiale di Prima Istanza
PA	Tribunale di Firenze. Atti in materia penale, Processi d’assise.

Introduction

This thesis investigates attitudes to sexual violence against children as revealed in penal codes and criminal courts in Florence during the long nineteenth century. Dealing with sexual violence against children means examining the ideas a culture had about childhood, sexuality, abuse, gender, family and the role ascribed to the institutions of the state. As Jean La Fontaine pointed out in the 1990s, ‘the strong emotions felt by adults who are faced with the fact of child sexual abuse are produced by its implications for all these issues.’¹ It goes without saying how much historical research on the subject can enrich our knowledge and understanding of a culture and society. Nevertheless, apart from some essays or chapters in books, I found only two monographs totally focused on the topic: Louise Jackson’s *Child sexual abuse in Victorian England* and Stephen Robertson’s *Crimes against children. Sexual violence and legal culture in New York City, 1880–1960*.² In 2012 the American Larry Wolff wrote about child abuse in Casanova’s Venice, but unlike Jackson and Robertson he focused on only one criminal case.³ Despite Wolff’s claims that his work reveals a fundamental change in attitudes to children and childhood, I have chosen to use the work of Jackson and Robertson as models: a focus on a short period or single case can distort because the cultural concepts that sexual violence against children call into question generally change gradually and over a long time. In other words, ‘turning points’ are hard to establish and this is why, methodologically, I have chosen the long term perspective (1786–1914).

¹ J. LA FONTAINE, *Child sexual abuse*. Cambridge: Polity Press, 1990, p. 21.

² L. A. JACKSON, *Child sexual abuse in Victorian England*. London: Routledge, 2001. S. ROBERTSON, *Crimes against children. Sexual violence and legal culture in New York City, 1880-1960*. London: The University of North Carolina Press, 2005.

³ L. WOLFF, *Paolina’s innocence. Child abuse in Casanova’s Venice*. Stanford: Stanford University Press, 2012.

I have investigated the nineteenth century because, as Stuart Woolf wrote in 1999 in the preface of an Italian book entitled *La scoperta dell'Infanzia* (The discovery of childhood), 'from the point of view of the historians of the western world, the nineteenth century is the age of childhood.'⁴ As for the discovery or invention of childhood, this idea can be traced back directly to Philippe Ariès (1914–84) and his book *L'enfant et la vie familiale sous l'Ancien Régime*.⁵ Ariès in the 1960s argued that the concept of childhood came into being in the sixteenth and seventeenth centuries. Afterwards a number of historians debated his chronology. Some agreed with Ariès that the early modern period was the decisive one.⁶ Others stated the turning point took place in the eighteenth century thanks to philosophers such as John Locke, who defined the child as a *tabula rasa*, and Jean Jacques Rousseau, who suggested leaving children free to express their own natures.⁷ Today, among historians the thesis according to which the concept of childhood was 'invented' or 'discovered' at some point in the past is generally held to be outdated. As Colin Heywood stressed, although there is recognition of the truly seminal influence of Ariès on the history of childhood, there is also a general feeling that it is time to move on, taking into account that the notion of childhood is socially constructed.⁸ As the social scientists Prout and James point out, the immaturity of children is a biological fact, a reality; what changes over times and places are the meaning attached to this period of a person's life, the borderline between childhood and mature age, and the relationship between children and adults, both the former and the latter playing an active role.⁹ Doubtless, in the nineteenth century changes occurred and different meanings were invested in childhood: the health of children

⁴ N. M. FILIPPINI, T. PLEBANI, ed. *La scoperta dell'infanzia. Cura, educazione e rappresentazione. Venezia 1750-1930*. Venezia: Marsilio Editori, 1999, p. XII.

⁵ P. ARIES, *L'enfant et la vie familiale sous l'Ancien Régime*. 2nd ed. Paris: éditions du Seuil, 1973.

⁶ C. J. SOMMERVILLE, *The rise and fall of childhood*. Beverly Hills, Calif.: Sage publications, 1982. C. J. SOMMERVILLE, *The discovery of childhood in Puritan England*. Athens: University of Georgia Press, 1992.

⁷ J. M. EZELL, *John Locke's images of childhood*. *Eighteenth-century studies*, 1983, 17, 139-155. P. COVENEY, *The image of childhood*. Harmondsworth: Penguin, 1967. H. CUNNINGHAM, *The invention of childhood*. London: BBC books, 2006.

⁸ C. HEYWOOD, Centuries of childhood: an anniversary –and an Epitaph? *Journal of the History of Childhood and Youth*, 2010, 3, 343-365.

⁹ A. JAMES, A. PROUT, ed. *Constructing and reconstructing childhood: contemporary issues in the sociological study of childhood*. London: Falmer Press, 1990, p. 7.

increasingly became a concern of governments; many children moved from the workplace to the school bench and they grew up in smaller families, and the ideal of attentive parents became more widespread.¹⁰ In other words, a growing attention was paid by adults to children. How did the approach to sexual violence against children shown by institutions of the state, society and family change throughout the so-called century of childhood? This is the main question of my PhD research.

I have chosen to answer this question with regard to a specific place: Florence. Over this century Florence was subjected to numerous changes, first of all political ones because of the succession of a series of régimes. At the end of the eighteenth century the city was the capital of the Grand Duchy of Tuscany ruled by the House of the Habsburg-Lorraine; from 1801 to 1807, in place of the Grand Duchy, a French satellite, called the Kingdom of Etruria, was set up; subsequently the Tuscan territories passed under the direct rule of Paris, administered as part of metropolitan France and under the rule of the Emperor, Napoleon I. In 1814, the Habsburg-Lorraine government was restored, although this rule was briefly challenged during the revolutionary upheavals of 1848–9; finally, in 1860/61 Tuscany was incorporated within the newly united Kingdom of Italy under the House of Savoy, with Florence assuming the status of Italian capital from 1865 to 1871. Despite different régimes, throughout the century, political power was strictly tied to a dominant social class, the so-called ‘patricians’, noble landowners, who extended their political and economic influence throughout Tuscany through farms and agencies, such as banks and academies. Their power started to be undercut only at the beginning of the twentieth century with the rise of the *movimento socialista*.¹¹ Despite the power and influence of the patrician class, the economic profile of the city changed in the long nineteenth century. From being the most important centre of the Tuscan textile industry at the end of the

¹⁰ C. HEYWOOD, Introduction. In: C. HEYWOOD, ed. *A cultural history of childhood and family in the age of Empire*. Oxford: Berg, 2010, p. 16.

¹¹ See T. KROLL, *Die revolte des patriziats. Der toskanische adelsliberalismus im Risorgimento*. Tübingen: Max Niemeyer Verlag, 1999; translated into Italian as *La rivolta del patriziato. Il liberalismo della nobiltà nella Toscana del Risorgimento*. Firenze: S. Olschki Editore, 2005. L. LOTTI, Dall’inizio del Novecento alla prima guerra mondiale. In: L. LOTTI, ed. *Storia della civiltà toscana. Il Novecento*. Firenze: Le Monnier, 2006, pp. 3–10.

eighteenth century, it became – while weathering several crises – a city devoted to business, tourism, and finance. A point of continuity was the permanent gap between a few very rich and the majority of population living in poverty. Yet these social classes used to share urban places. As a result, walking in the city, it was possible to see overcrowded buildings inhabited by impoverished Florentines very close to noble palaces. Florence's population increased above all in the second half of the nineteenth century in part because during its period as Italy's capital the municipal government extended the boundaries of the old city, changing its face and giving birth to the modern Florence. What remained unchanged during the century was the vitality of Florence's cultural activities. The city was always dense with theatres, libraries, academies and museums.¹²

My choice of Florence as a case study of child abuse in Italy was made for three main reasons. First, the succession of several *régimes* – not unusual in Italy during this period – permits me to examine how different governments regulated sexual violence towards children, tracing continuities and changes.¹³ Thus I have been able to examine Florence under the 'enlightened' rule of the eighteenth-century Habsburgs, under the 'modernising' rule of Napoleon, under the 'administrative monarchy' of the restoration, and under the 'liberal' rule of the newly united Italian state. Second, the considerable attention paid to children, to their health and education, by private and public institutions in Florence throughout the century would lead the historian to assume that there was a general condemnation of child sexual abuse. Last but not least, the widespread historical assumption that Tuscany possessed especially advanced and modern penal codes – it was after all the first place in Europe to outlaw

¹² Further details about the history of Florence will be provided later. To a general overview, G. MORI, ed. *Storia d'Italia. Le regioni dall'Unità a oggi. La Toscana*. Torino: Einaudi, 1986. G. MORI, P. ROGGI, ed. *Firenze 1815-1945, un bilancio storiografico*. Firenze: Le Monnier, 1990. L. LOTTI, ed. *Storia della civiltà toscana. L'Ottocento*. Firenze: Le Monnier, 1998. E. FASANO GUARINI, G. PETRALIA, P. PEZZINO, ed. *Storia della Toscana. Dal Settecento a oggi*. Roma-Bari: Laterza, 2004. J. BOUTIER, S. LANDI, O. ROUCHON, ed. *Florence et la Toscane XIVe –XIXe siècles. Les dynamiques d'un état Italien*. Rennes: Presses Universitaires de Rennes, 2004.

¹³ The period between the late eighteenth century and the early twentieth century saw repeated régime change across the peninsula, brought about both by international conflict and invasion, and by domestic insurrection and reform. Tuscany's fate was not directly paralleled elsewhere, but in this it was in some senses 'typical' in that every region of Italy experienced a slightly different chronology when it came to changes in régime and forms of government.

torture and to abolish capital punishment – made me wonder whether Tuscany was also especially progressive in attitudes to sexual violence against children.

During the period I investigate in this thesis, four penal codes were applied in Florence: the *Codice Leopoldino*, from 1786 to 1808 and from 1814 to 1853; the French penal code, from 1808 to 1814; the *Codice penale Toscano*, from 1853 to 1890; the *Codice Zanardelli*, from 1890 onwards. Both the two local laws, the *Codice Leopoldino*, celebrated for its abolition of the death penalty, and the *Codice penale toscano* have been regarded by many historians as the most progressive legal codes in Europe. With regard to sexual violence, the former made a distinction between *stupro violento*, violent rape with complete sexual intercourse, and *atti impudici*, sexual assault without penetration.¹⁴ The later code preserved these distinctions, relabelling *stupro violento* as *violenza carnale* and *atti impudici* as *atti di libidine*. Afterwards, the first Italian penal code, the *Codice Zanardelli*, retained the Tuscan classification and terminology that will be deleted from the Italian law only in 1996. Within my thesis, I examine how all the penal codes in force in Florence during the nineteenth century regulated sexual violence against children, tracing continuities and changes and paying particular attention to the shift from the *Codice penale toscano* to the *Codice Zanardelli*, namely when local legal terms became national. It should be underlined that after unification, the Savoy penal code was extended to the whole country with the sole exception of Tuscany where the *Codice penale toscano* stayed in force until 1890, the year when the *Codice Zanardelli* was introduced.¹⁵

Given the gulf between law and judicial practice, I have analysed the latter through criminal records, my principal primary sources, which are preserved in the Archivio di Stato in Florence.¹⁶ I will, therefore, try to answer

¹⁴ Some crimes, as *violenza carnale* and *atti di libidine*, will be left in Italian because the translation could be misleading. Nevertheless, at p. 187 there is a glossary with explanations.

¹⁵ I will explain later the reasons for the permanence of the *Codice penale toscano* till 1890.

¹⁶ Looking at the law and its application means involving different fields of expertise and increasing points of view on both justice and society. M. SBRICCOLI, *Giustizia negoziata, giustizia egemonica*. In: M. BELLABARBA, G. SCHWERHOFF, A. ZORZI, ed. *Criminalità e giustizia in Germania e Italia. Pratiche giudiziarie e linguaggi giuridici tra tardo medioevo ed età moderna*. Bologna: Il Mulino, 2001, p. 352. About the importance of taking into account both the law and the judicial practices, also M. SBRICCOLI, *Storia del diritto e storia della*

my main research question – how did the approach to sexual violence against children shown by institutions of the state, society and family change throughout the so-called century of childhood? – with reference to a specific place, Florence, through examination of the documents generated by the criminal courts, namely the *Supremo Tribunale di Giustizia* (1777–1808), the *Tribunale di prima istanza di Firenze* (1808–1814), the *Ruota criminale* (1814–1838), the *Tribunale collegiale di prima istanza di Firenze* (1838–1865) and the *Corte d'assise di Firenze* (1866–1914). During my archival research I looked for trials for *atti impudici/atti di libidine*, *stupro violento/violenza carnale* and sodomy against children under twelve, the age under which the law in theory did not need proofs of violence that was taken for granted.¹⁷ In addition, I also searched for incest trials. In this case I have taken into consideration also injured parties who were older than twelve when the charges were brought because often the abuse started when the victim was much younger. I found 223 trials: 153 (69%) involved girls; 42 (19%) dealt with sexually assaulted boys and 28 (12%) were incest cases.¹⁸ All defendants were men apart from four women who were actually charged with having fostered the sexual abuse of children by unknown men. It goes without saying that the number of trials I found does not reflect the real number of cases of sexual violence against children that occurred in Florence in the nineteenth century because many stories were preserved in the so-called ‘dark zone’ or they were hidden in trials for other crimes.¹⁹ Nevertheless, this awareness leads me to wonder why the cases I discovered were reported to the justice, when so many others probably were not. There is no doubt that criminal records are extremely valuable as historical sources. They can provide information not only about penal codes and institutional structures, but also about social values. Nevertheless, they should be handled very carefully. One of the main features –

società. Questioni di metodo e di ricerca. In: P. GROSSI, ed. *Storia sociale e dimensione giuridica. Strumenti d'indagine e ipotesi di lavoro. Atti dell'incontro di studio. Firenze, 26-27 aprile 1985*. Milano: Giuffrè Editore, 1986, pp. 127-147.

¹⁷ The only exception was the *Code pénal de l'Empire Français* in force in the Grand Duchy of Tuscany from 1808 to 1814 and according to which people reached maturity when they were fifteen.

¹⁸ See Chart n. 1, p. 191.

¹⁹ For instance, Karen Dubinsky, who has studied sexual violence in Ontario from 1880 to 1929, found cases of rape labelled as infanticide. K. DUBINSKY, *Improper advances: rape and heterosexual conflict in Ontario, 1880–1929*. Chicago: University of Chicago Press, 1993.

and advantages for the social and cultural historian – of the nature of criminal records is that they are ‘multivocal’.²⁰ We have children’s voices in them. As Beth Bailey points out, ‘we lack access to children’s own voices; those that exist are almost without exception recorded, to purpose, by adults.’²¹ This is true also with reference to criminal records, but as Louise Jackson stressed:

The search for the ‘pure’ source through which children’s subjectivity can be studied ontologically is, of course, a futile exercise since children are not and cannot be positioned outside of adult culture [...] it is impossible to separate children’s subjectivities from the regulatory frameworks that have sought to shape them. Rather, the relationship between the two is a key area of study as is the relationship between subcultures and wider popular cultures.²²

Criminal records permit historians to investigate the relationship between children, who were physically present during investigations, and the adults who transcribed depositions applying mediation but at least with children in front of them. Taking into account this filter, the question I asked of the records was ‘How did children describe themselves and the sexual violence?’ It is, of course, important to stress that testimonies are usually piloted by questions. If this can obscure the voice of the child, it can also tell us much about the nature of the society and state in which the child lives. The choice of the questions by state officials casts light upon the institutional cultures. What were the officials looking for when trying to ascertain to reach the ‘judicial’ truth? What did they think was essential to understand events? Obviously, apart from children there were many other actors involved in the trials I found and their depositions too were nearly always transcribed by officials because the majority of people were illiterate. First, there were the defendants: What were their identities? Were they strangers or people familiar

²⁰ E. MUIR, G. RUGGIERO, Introduction: the crime of history. In: E. MUIR, G. RUGGIERO, ed. *History from crime*. Baltimore: The Johns Hopkins University Press, 1994, p. IX.

²¹ B. BAILEY, The vexed history of children and sex. In: PAULA S. FASS, ed. *The Routledge history of childhood in the Western World*. New York: Routledge, 2013, p. 191.

²² L. JACKSON, Childhood and youth. In: G. COCKS AND M. HOULBROOK, ed., *Palgrave advances in the modern history of sexuality*. Basingstoke: Palgrave Macmillan, 2006, pp. 243-244.

to the children involved? Taking into account that defendants felt the threat of punishment, how did they try to defend themselves?²³ Second, there were parents, other relatives, neighbours, midwives and priests. How did they act? How did they try to deal with stories of sexual violence against children? What ideas about childhood did they support in courts? As for priests, they appeared in trials playing a marginal role that I will explain later. Here one point needs particular emphasis: the nature of sources is absolutely secular and, consequently, religious considerations are quite absent in this thesis. This begs a question because I have, of course, been studying a city that was overwhelmingly – at least superficially – Catholic in its culture and values. However, the almost total absence of the discussion of religious matters both in the police proceedings and trials, and within the law codes, means that it seemed inappropriate to speculate too much on religious belief and how it related to sexual abuse of children. It is my hope that in the future I shall be able to explore other sources that might cast light on this religious aspect, perhaps making use of archives from the pre-unification Papal States where it might be expected that the religious angle played a more prominent rôle in such cases. If religion was almost entirely absent from the documents, medical science was always present. Doctors' testimony was pivotal in almost all cases. How then did they describe children's bodies? How did they define sexual violence? Last but not least, there were judges, their views articulated above all else through the sentences they passed: What ideas about childhood did they express? How did they classify the crimes with which they dealt? How did they justify acquittal or conviction? It is quite self-evident that trials I have

²³ Witnesses in trials feel the threat of punishment and most are led to lie for different reasons: 'to establish innocence or guilt, to pursue animosities or protect friendships, to please the powerful or thwart them.' (S. ROBERTSON, What's law got to do with it? Legal records and sexual histories. *Journal of the history of sexuality*, 2005, 14, p. 162). Nevertheless, a lie can be significant. The story of the 'old vinegar lady' told by Giovanna Fiume is a clear example. The 'old vinegar lady' was a woman living in the Sicilian city of Palermo at the end of the eighteenth century. She usually introduced herself as a witch and, in order to help unhappy wives, she used to prepare and give them a lethal potion to kill their husbands. The potion was made of a lotion usually used to kill lice. The 'old vinegar lady' was finally charged of witchcraft. In the past this was a very serious offence followed by very strict punishment. Therefore, when the woman was asked whether she was a witch or not, she resolutely denied it although she was convinced of the contrary. Unfortunately, the old widow seemed to be unaware that mentalities had changed, and that witchcraft was no longer considered seriously. If she had not denied being a witch, she might have been regarded as a poor old mad woman who did not deserve to be punished. In reality she was convicted and received a very harsh sentence (G. FIUME, *Mariti e pidocchi: storia di un processo e di un aceto miracoloso*. Roma: XL edizioni, 2008).

examined were populated with a wide variety of people, but above all with children, women and men coming from the lowest social classes of Florence, such as silk workers, shop boys, craftsmen, shopkeepers, woodcutters, peasants, farm labourers, and domestic servants.²⁴ As Stephen Robertson wrote in 2005, criminal records are elite sources through which it is possible to investigate also the ideas, behaviour and feelings of non-elite subjects.²⁵ Therefore, my records not only show the relationship between children and adults, but also the encounter of different social classes. Nevertheless, the focus will be on childhood and above all on a key-concept, that of innocence.

In the 1970s Susan Brownmiller wrote in her well-known book *Against our will* that rape did not have anything to do with sex and it was only a means by which 'all men kept all women in a state of fear'.²⁶ According to the philosopher Ann Cahill, the removal of sex from the definition of rape by feminists was justified by the wish to eliminate every element that could play the role of a trap for women making the latter responsible for the violence they had suffered.²⁷ Nevertheless, sex and violence are both parts of rape; otherwise, as stressed by Catharine MacKinnon, if a man wants only to do violence to a woman, why does not he limit himself in beating her?²⁸ The coexistence of sex and violence is also true with regard to rape of children; in other words, both these elements should be taken into account. Notwithstanding, not only there are a handful of studies totally focused on sexual violence against children, but also child sexuality has been a topic neglected by historians. A rapid overview of some major works on the history of childhood reveals that only one devotes an entire chapter to the topic 'sexuality and childhood'.²⁹ The same remark could be made with reference to the major works on the history of sexuality: only one book includes a chapter

²⁴ See tables 5 and 6, pp. 194-195.

²⁵ ROBERTSON, What's law got to do with it? 162. For an example of how court records can be used for insight into popular working habits see also HANS-JOACHIM VOTH, *Time and work in England, 1750-1830*. Oxford: Oxford University Press, 2001.

²⁶ S. BROWNMILLER, *Against our will: men, women and rape*. Harmondsworth: Penguin, 1986, p. 15. First published in 1975.

²⁷ A. J. CAHILL, *Rethinking rape*. New York: Cornell University, 2001, p. 20.

²⁸ C. A. MACKINNON, *Toward a feminist theory of the state*. Cambridge: Harvard University Press, 1989, p. 323.

²⁹ BAILEY, The vexed history of children.

totally focused on childhood.³⁰ As Beth Bailey points out, ‘historical actors mapped this territory much as early explorers charted the world, with uncertain knowledge and fearful certainty.’³¹ While historians have been reticent about childhood and sex, many wrote about the concept of ‘innocence’. Basically, the Western culture rests on two images of the child, both descending from the Christian tradition: that of the child born with original sin and that of the innocent child reminiscent of the Christ child.³² This dichotomy is placed by Colin Heywood among the historical ambiguities that characterized our consciousness of childhood.

Running like a red thread through the historical literature is the contradictory nature of ideas and emotions concerning childhood. It is striking how often the words ambivalence and ambiguity appear in relation to widely different periods in history [...] A number of dichotomous images emerge from the debates on childhood [...] Did children come into the world innocent, or with the stain of original sin upon them?³³

From the eighteenth century onwards the concept of children’s innocence was more and more linked to the denial of children’s sexuality.³⁴ Michel Foucault, who devoted few pages to children, but almost in parallel to Ariès had a truly seminal influence on the following studies on the history of sexuality, stated that children’s sexual behaviour became a public problem during the eighteenth century.³⁵ While boys (gender differences were not taken into account)³⁶ were more and more distanced from access to sexual knowledge and sex became a taboo between children and adults, a whole

³⁰ JACKSON, *Childhood and youth*.

³¹ BAILEY, *The vexed history of children*, p. 191.

³² HEYWOOD, *A history of childhood*, pp. 33-34.

³³ *IBID*, p. 32.

³⁴ A dated but still valuable essay is helpful to trace this process. S. FISHMAN, *The history of childhood sexuality*. *Journal of contemporary history*, 1982, 17 (2), 269-283.

³⁵ About Foucault’s influence on the writing of history and the comparison between him and Ariès, P. O’BRIEN, *Michel Foucault’s history of culture*. In: L. HUNT, ed. *The new cultural history*. London: University of California Press, 1989, pp. 25-46.

³⁶ ‘Foucault’s works offer an important starting point for critical interpretations of the politics of Western sexuality. Nevertheless, he examines male sexuality while leaving female sexuality invisible. To complete this historical account of sexuality requires feminists critiques which extend and alter the analysis to include female sexuality.’ E. A. BUKER, *Hidden desires and missing persons: a feminist deconstruction of Foucault*. *The Western Political Quarterly*, 1990, 43 (4), 811-832.

literature of precepts, opinions, observations and medical advice around boys and their sexual habits and desires proliferated.

Take the secondary schools of the eighteenth century, for example. On the whole, one can have the impression that sex was hardly spoken of at all in these institutions. But one only has to glance over the architectural layout, the rules of discipline, and their whole internal organization: the question of sex was a constant preoccupation. The builders considered it explicitly. The organizers took it permanently into account [...] The spaces for classes, the shape of the tables, the planning of the recreation lessons, the distribution of the dormitories [with or without partitions, with or without curtains], the rules for monitoring bedtime and sleep period – all this referred, in the most prolix manner, to the sexuality of children.³⁷

In other words, a new regime of discourses came out. On the one hand, adults were concerned about children's sexuality and they wrote a lot on the subject. On the other hand, silence was imposed on children whose innocence should be preserved. Colin Heywood defined this process as 'the colonization of childhood by adults'.³⁸ Taking into account all these considerations about the coexistence of sex and violence in rape, the concept of innocence linked to an ideal sexless child, I aimed at investigating what ideas circulated in the Florentine courts about children's sexuality and their innocence, trying to understand to what extent these ideas were shared by the institutional structures and mirrored in prevailing social values. In addition, as 'discussion of the child that do not take gender into account can quickly become meaningless', I wanted to investigate my sources to ascertain how far ideas about childhood were gendered.³⁹

To answer all the questions I formulated, I have chosen to divide the thesis in three parts. The first part is about sexual violence against female

³⁷ M. FOUCAULT, *The history of sexuality*. Volume I: *An introduction*. Translated from the French by Robert Hurley. New York: Vintage, 1990, pp. 28-29. First published as *Histoire de la sexualité: La volonté de savoir*. Paris: Éditions Gallimard, 1976.

³⁸ HEYWOOD, *A history of childhood*, p. 16.

³⁹ H. MONTGOMERY, *An introduction to childhood: anthropological perspectives of children's lives*. Oxford: Wiley-Blackwell, 2009, p. 53.

children. This, made up of three chapters, is the longest section because trials that involved girls under twelve constitute the bulk of the material I found during my research. The second part is about sexual violence against boys under twelve, while the third part is about incest. I will explain later that my decision to deal with sexual violence against boys and incest separately from sexual violence against girls was determined above all because of the way these crimes were approached by the judicial system. The whole work centres on a series of narratives concerning individual cases, and each section starts with a trial. This was an approach that I have found in the work of other historians, and which I really appreciated in books, such as Ferraro's *Nefarious crimes*. I have adopted it not only because it permits readers to immerse themselves in the historical and social context, but above all because it does not deprive those people involved in the cases of their identity.⁴⁰ Nevertheless, every separate trial on which I focus is investigated within the context of my wider research, which has taken into account all the records in the Florentine archives dealing with sexual violence against children within my time frame. I have thus been able to trace both recurring and unusual and distinctive elements. Even though during the body of the thesis I discuss sexual violence against girls, and against boys, and within the context of incestuous relationship within different sections, in my conclusions I bring these together, offering a nuanced account of varieties of response, while also keeping in mind my single principal question: Did the approach to sexual violence against children shown by institutions of the state, society and family fundamentally change in the Florentine courts throughout the so-called century of childhood?

⁴⁰ J.M. FERRARO, *Nefarious crimes, contested justice. Illicit sex and infanticide in the Republic of Venice, 1557-1789*. Baltimore: The John Hopkins University Press, 2008.

Part I

Sexually assaulted girls

This first part focuses on sexual violence against female children. As trials involving girls under twelve constitute the bulk of the material that I found in my research (69% of all cases), this section is the longest one. In addition, it must be remembered that the injured parties in incest cases, which will be analysed separately, were always female. As a result, 81% of trials dealt with sexually assaulted girls.⁴¹ Do these figures mean that girls rather than boys were overwhelmingly the victims of sexual violence, or does it simply reflect the degree to which for reasons of law or social moeurs, cases involving girls were more likely to be reported and prosecuted? The answer must take into consideration coeval attitudes to gender. First, until the middle of the nineteenth century the law regarded only rape of women as possible. Second, as the historians Maria Clara Donato and Lucia Ferrante point out, male violence against females appeared to be rooted in those societies and cultures whose families are patrilineal and that structure power hierarchies around the image of the father. As a kind of ‘virus’, violence against women – of any age – changes shapes and contents, but it endures saving all its viciousness.⁴² In particular, sexual violence has been – and sometimes still is – explained and even justified by recourse to the idea that men are naturally aggressive. At the end of the nineteenth century the well-known psychiatrist Richard von Krafft-Ebing asserted men naturally wanted to have sex and they were naturally impetuous.⁴³ In 2000 the same thesis has been supported by the biologist Randy Thornhill and the anthropologist Craig Palmer in a book entitled *A natural history of rape. Biological bases of sexual coercion*.⁴⁴ As the philosopher Ann Cahill clearly stressed, even if a biological basis is accepted

⁴¹ See Chart 1, p. 192.

⁴² M. C. DONATO, L. FERRANTE, Introduzione. *Genesis. Rivista della Società italiana delle storiche*, 2010, IX (2), 7-9.

⁴³ R. VON KRAFFT-EBING, *Le psicopatie sessuali. Con speciale considerazione alla inversione sessuale. Studio clinico-legale*. Translated from the German by Enrico Sterz and Luigi Waldhart. Torino: Fratelli Bocca, 1889, pp. 9-11. First published as *Psychopathia sexualis. Eine klinisch-forensische Studie*. Stuttgart: Verlagsbroschur des Erstrucks, 1886.

⁴⁴ R. THORNILL, C. T. PALMER, *A natural history of rape. Biological bases of sexual coercion*. Cambridge: The MIT Press, 2000.

does not legitimate rape as natural human behaviour.⁴⁵ In other words, between a ‘natural’ possibility and its action a crucial role is played by culture. It is no coincidence that there are societies that are ‘rape free’.⁴⁶ It goes without saying that historical studies could contribute to the understanding of the social and cultural roots of sexual violence.

My research confirms the prevalence of sexual violence against females: 153 trials of 223 involved girls under twelve. Obviously, it would be naive to suggest that this figure mirrors the real number of instances of sexual violence occurring in Florence in the nineteenth century because presumably many cases were not reported to authorities. Symptomatic of this is the absence of people belonging to the upper classes, which undoubtedly were not immune to sexual violence. Defendants of all trials (rape of girls/boys and incest) came from the lowest social classes: 26% were farmers (e.g. peasants, farm labourers, stablemen, livestock breeders), 25% were craftsmen (e.g. stone cutters, carpenters, shoemakers), 19% were merchants and traders (e.g. soap merchants, wine sellers, rag merchants, bakers), a minority was made up of textile workers, servants, carriers, dockers and others jobs. Unfortunately, because I analysed above all sentences and I examined in depth only a small number of trials, I could not collect data about the profession of all children’s parents: verdicts contain many more details about defendants and very often they only include the name and the age of the injured party. Nevertheless, a sample of 54 fathers and 39 mothers reveals a social background not so very different from that of the defendants: 72% fathers were farmers and craftsmen and 65% mothers were textile workers and farmers.⁴⁷

This first part is divided into three chapters that reflect three different stages detected in the way judges perceived and evaluated sexual violence against girls in the Florentine courts during the nineteenth century. The first chapter analyses trials addressed by the *Supremo tribunale di giustizia* and the *Tribunale di Prima Istanza* showing the nearly total impunity of perpetrators

⁴⁵ CAHILL, *Rethinking rape*, p. 24.

⁴⁶ See P. REEVES SANDAY, The socio-cultural context of rape: a cross-cultural study. *Journal of Social Issues*, 1981, 37 (4), 5-27.

⁴⁷ See Tables 5 and 6, p. 194-195.

of female child rape at the beginning of the century. The second chapter takes into consideration cases dealt with by the *Ruota Criminale* and the *Tribunale collegiale di Prima Istanza*, and focuses on the ways judges dismissed child rape on several grounds: impenetrability of children's bodies, the cunning of girls, and the absence of sexual desire shown by men. The third and last chapter examines trials addressed by the *Corte d'Assise* in the second half of the century, after the unification of the Kingdom of Italy. In this chapter I highlight clear changes in sentencing: while the previous *Tribunale collegiale di Prima Istanza* convicted the 97% of all defendants for lewd acts (*atti di libidine*) with following mild penalties, the *Corte d'Assise* sentenced 74% men for rape (*violenza carnale*) with harsher punishments.⁴⁸ It goes without saying that it will be showed also what remained unchanged throughout the century.

Through close engagement with the primary sources, I have sought to answer all the questions presented in the introduction, taking into consideration that injured parties were not only children, but overwhelmingly also female children. In other words, this is research that requires not only understanding the way in which children were treated, but the way in which gender affected the action and perception of violence, whether by the families of the victims, or by constables of the law, neighbours, doctors, and judges. Last but not least, I have sought to demonstrate the degree to which the very fact of their being female influenced the way in which girls narrated their experiences, and how this impacted upon the final sentences of those judged guilty.

⁴⁸ See Chart 4, p. 193 and Table 8, pp. 201-219.

Chapter I

The impunity of female child rape

In this chapter I will describe the activity of two courts, the *Supremo Tribunale di Giustizia* (1786–1808) and the *Tribunale di Prima istanza* (1808–1814), starting by recounting three stories that occurred respectively in 1790, 1804, and 1811.

In 1790 Grand Duke Pietro Leopoldo quit Tuscany to move to Vienna, to reunite his destiny with that of the House of Habsburg-Lorraine, and became Holy Roman Emperor following the death of his brother, Joseph II. The Grand Ducky of Tuscany had been under the rule of the Habsburg-Lorraine since the 1737. Pietro Leopoldo became Grand Duke in 1765, and from the outset of his reign he promoted a raft of reforms in the fields of the economy, politics, administration, and justice, applying the values of the Enlightenment to the reality of Tuscany.⁴⁹ Among the reforms he promoted, a leading position was given to reform of criminal law and punishment. He established order among the many institutions that had wielded judicial power, creating a single court with the task of judging serious crimes, the *Supremo Tribunale di Giustizia*. This is the court that dealt with the first two cases that I shall analyse in this chapter. Pietro Leopoldo's criminal reforms reached their culmination on 30 November 1786 when the so-called *Codice leopoldino* entered into force. The latter was celebrated for being the first code in Europe to abolish the death penalty. Its popularity contributed to making Pietro Leopoldo an almost mythical figure: in 2001 the regional government adopted 30 November as a regional celebration. Pietro Leopoldo also demonstrated himself to be receptive

⁴⁹ MORI, ed. *Storia d'Italia. Le regioni dall'Unità a oggi. La Toscana*, pp. 60-72. F. DIAZ, L. MASCILLI MIGLIORINI, C. MANGIO, *Il Granducato di Toscana. I Lorena dalla reggenza agli anni rivoluzionari*. Torino: Utet, 1997, pp. 349- 393. A. CONTINI, Istituzioni e politica nell'età delle riforme. In: FASANO GUARINI, PETRALIA, PEZZINO, ed. *Storia della Toscana. Dal Settecento a oggi*, pp. 3- 19. E. CHAPRON, L' État des Habsbourg-Lorraine (1737-1799). In: BOUTIER, LANDI, ROUCHON, ed. *Florence et la Toscane XIVE –XIXe siècles*, pp. 105-125.

to the new European ideas about children, their education and care. Indeed, he supported the creation of secular institutions aimed at the schooling of both poor and wealthy boys and girls and he paid attention to women's and children's care promoting reforms in the Florentine hospitals.⁵⁰

In 1804 the rulers of Tuscany were no longer the Habsburgs but the Bourbons of Parma. Indeed, since the Treaty of Lunéville in 1801, Tuscany had been a French-satellite called Kingdom of Etruria and assigned to Ludovico I of the Bourbons of Parma. When the latter died in 1803, leaving a four-year old son, his wife Maria Luisa of Spain was appointed regent.⁵¹ The Tuscan code and judicial system persisted under the Bourbons of Parma.

By 1811 Tuscany had been incorporated by Napoleon into metropolitan France. The territories that had belonged to the ex-Grand Duchy had been divided into three administrative departments, one of which, the Arno, included the district of Florence. This change also meant that the system of justice conformed to the French one: the *Supremo Tribunale di Giustizia* was replaced by the *Tribunale di Prima Istanza* and the *Codice leopoldino* was substituted by the *Code pénal de l'Empire Français*.⁵²

Notwithstanding these political changes, during the first half of the nineteenth century, Florence appeared to be a city that changed slowly. Unlike other big European cities, such as Paris or London, Florentine inhabitants did not increase in number drastically. According to the 1810 census the population of Florence was under 70,000 inhabitants. There was little or no over-crowding, and families generally consisted of three or four members. In addition, the census tells us that the population was quite old by the standards of the time – only 24 per cent was under fourteen –, and poverty was widespread. The majority of men and women were craftsmen, innkeepers, and

⁵⁰ M. PIERONI FRANCINI, L'istruzione femminile nella Toscana di Pietro Leopoldo. *Dimensioni e problemi della ricerca storica*, 1991, 2, 7- 24. T. CALOGERO, Scuole e comunità. La riforma dell'istruzione pubblica nella Toscana di Pietro Leopoldo. *Rassegna storica Toscana*, 2000, 1, 3-41. About the reforms in the hospitals, I will give further details later.

⁵¹ DIAZ, MASCELLI MIGLIORINI, MANGIO, *Il Granducato di Toscana*, pp. 472-503.

⁵² I. TOGNARINI, ed. *La Toscana nell'età rivoluzionaria e napoleonica*. Napoli: edizioni scientifiche Italiane, 1985. Z. CIUFFOLETTI, Il tornado napoleonico. In: LOTTI, ed. *Storia della civiltà toscana*, pp. 3-30.

textile workers as the main characters of the following stories.⁵³ We start with the case involving Maria and Natale in 1790.

‘He only gave her a spanking on her legs’:

Maria and Natale, 1790

On 26 June 1790, the chief of the police station of the Santo Spirito, district of Florence, reported to the court *Supremo Tribunale di Giustizia* that ‘he had been told’ that Maria, a girl aged eleven, had been raped by the thirty-seven year-old Natale. The former lived in the via Saturnino with her father, her stepmother, and a younger brother. Maria used to frequent Natale’s house close to the church Orsanmichele in the city centre, where she was being taught to be a seamstress by his wife. On occasion, the latter went out, leaving the child and her husband alone. During his wife’s absence, Natale used to sexually assault Maria. The child did not confide in anyone what was happening to her until her parents discovered she had contracted syphilis. Her parents took Maria to be treated at the hospital of Santa Maria Nuova, but when doctors made it clear that they wanted to write a medical report, her parents refused to start the cure. On account of this, the parents took the child to several doctors across the city, but no one wanted to treat her without writing up a medical report. Yet someone else also knew what had happened: Natale and Maria’s father worked together as carpenters in the same workshop, and their master, who promised to keep silent about what had taken place, decided to pay a surgeon he knew to treat the child. In the end, the story came to be known by the police of Santo Spirito, and reported to the *Supremo Tribunale di Giustizia*.⁵⁴

This court, consisting of judges appointed by the government, became in 1777 the only court with the legitimate task of judging serious crimes. It thus replaced the old *Otto di Guardia e Balìa* and thirteen other institutions that had

⁵³ G. GOZZINI, *Firenze francese. Famiglie e mestieri ai primi dell’Ottocento*. Firenze: Ponte alle grazie, 1989.

⁵⁴ Archivio di Stato di Firenze (ASF), Supremo Tribunale di Giustizia (STG): 268 (trial n. 111).

wielded judicial power in the previous centuries.⁵⁵ Although it dealt directly only with crimes that took place in Florence and surrounding neighbourhoods, the *Supremo Tribunale di Giustizia* received investigations from all the provinces to establish sentences. This explains the absence of the appellate court: each case was discussed once by several judges.⁵⁶ The only choice convicted people had after being sentenced was to ask the so-called *Consulta* for clemency. The reform introduced in 1777 aimed also to make a clear distinction between justice and general supervision of the population, which latter task was entrusted to the police. The need for this kind of separation was first theorized by the German science of administration known as Cameralism at the beginning of the eighteenth century; several European countries swiftly embraced the idea.⁵⁷ In Florence, as the Grand Duke Leopoldo explicitly stated, the French model was to be followed. The Grand Duke's reforms established four districts, each headed by a *commissario*: Santa Croce, San Giovanni, Santa Maria Novella, and Santo Spirito. Police had to supervise the marginalised people, urban order, customs, social behaviour, families' honour and the 'wise conduct of young citizens'.⁵⁸ It is self-evident that these state bodies took on responsibility for many matters that had been the preserve of the religious authorities in earlier centuries. Meanwhile, ecclesiastical jurisdiction was increasingly restricted until the eventual abolition of the Holy Office in 1782.⁵⁹ To some extent, as Alessandra Contini pointed out, the Florentine police, led by the *Presidente del Buon Governo*, inherited the role

⁵⁵ C. MANGIO, *La polizia Toscana. Organizzazione e criteri d'intervento (1765-1808)*. Milano: Giuffrè, 1988. About the Otto di Guardia e Balìa, J.K. BRACKETT, *The Otto di Guardia e Balìa: Crime and its control in Florence, 1537-1609*. Cambridge: Cambridge University Press, 1991.

⁵⁶ G. ALESSI, *Questione giustizia e nuovi modelli processuali tra '700 e '800. Il caso Leopoldino*. In: L. BERLINGUER, F. COLAO, ed. *La "Leopoldina" nel diritto e nella giustizia in Toscana*. Vol. 5. Milano: Giuffrè, 1989, p. 162

⁵⁷ See the volume *Materiali per un lessico europeo: 'polizia'*. *Filosofia politica*, 1988, 1, 7-147. M. SBRICCOLI, *Polizia*. In: *Enciclopedia del diritto*. Milano: Giuffrè, 1985, XXXIV, pp. 11-120. A. CHIAPPETTI, *Polizia*. In: *Enciclopedia del diritto*, pp. 120-157.

⁵⁸ G. ALESSI, *Le riforme di polizia nell'Italia del Settecento: Granducato di Toscana e Regno di Napoli*. In: C. LAMIONI, ed. *Istituzioni e società in Toscana nell'età moderna. Atti delle giornate di studio dedicate a Giuseppe Pansini, Firenze, 4-5 dicembre 1992*. Roma: Ministero per i beni culturali e ambientali, 1994, p. 416.

⁵⁹ From 1784 marriage disputes were no longer settled by ecclesiastic jurisdiction but by state. D. LOMBARDI, *Matrimoni di antico regime*. Bologna: Il Mulino, 2001.

previously played by religious authorities.⁶⁰ By the so-called *procedura economica*, police judged crimes that could be punished by fines. Consequently, many cases were resolved swiftly without the necessity of coming to court.⁶¹ This role played by the police together with the task of starting investigations shows how the goal of a clear division between justice and public control was not totally achieved.

Even in Maria's story investigations were started by police from the district of Santo Spirito, who had been informed of the rape by an anonymous denunciation. Then, as the law established for nearly all crimes, the charge was formulated *ex officio*.⁶² By preventing the offended party from stopping the criminal procedure, public authorities went beyond victims' or their families' will and they just condemned an act without taking care of the injured party's desire. What was strictly condemned was having sex with children, whether or not there was violence. Maria's parents clearly did not want to charge Natale, but police constables intruded into this family's life and, supported by the law, they reported the case to the court. Nevertheless, this kind of behaviour appeared to be unusual. If we look at all the 29 cases of sexual assault on female children, addressed by the *Supremo Tribunale di Giustizia* from the introduction of the so-called *Codice leopoldino* in 1786 to 1808, the police formulated *ex officio* charges only after complaints from parents.⁶³ This evidence reveals complicity between police and families whose wishes were

⁶⁰ Only in 1784 a clear distinction between justice and police was operated in the highest levels of the judicial system by replacing the *Auditore fiscale* with the Presidente of the *Supremo Tribunale di Giustizia* and the *Presidente del Buon Governo*.

⁶¹ A. CONTINI, *Corpo, genere e punibilità negli ordinamenti di polizia della Firenze di fine Settecento*. In: N. MARIA FILIPPINI, T. PLEBANI, A. SCATTIGNO, ed. *Corpi e storia. Donne e uomini dal mondo antico all'età contemporanea*. Roma: Viella, 2002, pp. 45-46

⁶² In the common sense *ex officio* refers to powers that, while not expressly conferred upon an official, are necessarily implied in the office. In the Italian legal systems that I am describing here, *procedura ex officio* means a criminal prosecution brought by virtue of office, in other words by the judicial authorities without the necessity of the charge expressed by the injured party (see, Glossary).

⁶³ ASF, STG: 224 (trial n. 39), 227 (trial n. 79), 236 (trial n. 114), 381 (trial n. 292), 384 (trial n. 12), 434 (trial n. 188), 556 (trial n. 17), 579 (trial n. 427), 595 (trial n. 178), 610 (trial n. 251), 617 (trial n. 348), 626 (trial n. 503), 641 (trial n. 199), 646 (trial n. 259), 667 (trial n. 120), 675 (trial n. 239), 699 (trial n. 129). To some degree, this research overlaps with G. ARRIVO, *Seduzioni, promesse, matrimoni. Il processo per stupro nella Toscana del Settecento*. Roma: Edizioni di Storia e Letteratura, 2006. Arrivo has studied in depth trials for rape addressed by the *Supremo Tribunale di Giustizia* from 1777 to 1790. The following research deals with the period 1786-1808.

usually respected. Police were expected to check and report every case of illicit behaviour in communities and, to some extent, they fulfilled this task. In 1785, 30 per cent of all the affaires dealt with by the *Presidente del Buongoverno* were cases of licentious conduct.⁶⁴ Nevertheless, as Alessandra Contini has already pointed out, police constables were not ‘eyes without faces’⁶⁵; they moved within communities, they often supported people’s needs, and they tried to arbitrate conflicts.⁶⁶ Even judges appeared to be aware of this alliance. In a trial dealt with by the court in 1795, the judges wrote when passing sentence that police constables had been persuaded to charge the painter Antonio with having sexually assaulted the eight year-old Maria by the girl’s mother, a poor widow who wanted to expand her income by receiving compensation after the trial.⁶⁷ Nevertheless, police constables did not help all citizens, but only those whom they considered deserving of their support, in other words those whose behaviour reflected dominant cultural values, such as hard-work and sexual virtue. In 1794 Luisa, a girl aged eight, had had intercourse more than once with a suspicious man ‘who used to have his blonde hair flip-up like that of women’.⁶⁸ Police constables could not keep the silence about this illicit conduct and, without listening to the girl’s parents, they started *ex officio* a criminal procedure. They acted in this story as they did in Maria’s case. Nevertheless, the reason for their behaviour appeared to be different. The relationship between Luisa, who was depicted as a ‘tricky’ girl, and the suspicious feminine man was too scandalous; such a dishonest relationship needed to be stopped. As regards Maria, police constables might have been persuaded to charge Natale notwithstanding the wishes of his victim’s parents by the fact that rumours had become so widespread. Supposedly, after the girl had been taken to several different doctors, the knowledge of the situation was so widespread amongst people and police – the latter of which were tasked with policing the good conduct of the population – that it became impossible to ignore. Constables might have been led to behave in the same way starting

⁶⁴ CONTINI, *Corpo, genere e punibilità*, p. 41.

⁶⁵ M. FOUCAULT, *Sorvegliare e punire. Nascita della prigione*. Translated from the French by Alceste Tarchetti. Torino: Einaudi, 1993, p. 233. First published as *Surveiller et punir. Naissance de la prison*. Paris: Editions Gallimard, 1975.

⁶⁶ CONTINI, *Corpo, genere e punibilità*, p. 52.

⁶⁷ ASF, STG: 410 (trial n. 274)

⁶⁸ ASF, STG: 374 (trial n. 243)

investigations even in the case involving the surgeon Luigi accused of having assaulted Luisa, a girl aged thirteen: the entire village where both lived, Peretola, was informed of the rape.⁶⁹

In another circumstance the police were obliged to start investigations; this happened when rapes of children were reported by doctors, by means of a medical report sent to a police station. This is why Maria's parents did not want doctors to write a report about their daughter's venereal disease. They did not want to produce any evidence of what occurred to the girl. Nevertheless, this fear appeared to be exaggerated and, to some extent, unjustified because, from 1786 to 1808, only eight criminal procedures of 29 started following a hospital medical report to the police.⁷⁰ Doctors usually did not denounce many cases. Therefore, how are we to explain Maria parents' anxieties? They might have been aware of changes that were taking place in Santa Maria Nuova. First of all, having been run by nobles for centuries, the management of the hospital was entrusted to a *commissario* directly appointed by the state.⁷¹ Second, as elsewhere in Europe, the inner organization of the hospital was transformed making the cure of diseases central.⁷² In addition, particular attention was paid to venereal diseases and a specific place, within the section for surgical cases, was dedicated to their treatment.⁷³ Last but not least, a new interest was expressed in women and children's care, especially with regard to childbirth. This is why obstetrics became a scientific discipline and a committee was appointed by the government to improve medical care in the Ospedale degli Innocenti, an old-fashioned children's orphanage.⁷⁴ The aim was to lower the

⁶⁹ ASF, STG: 556 (trial n. 17)

⁷⁰ ASF, STG: 218 (trial n. 116), 224 (trial n. 33), 415 (trial n. 13), 469 (trial n. 215), 618 (trial n. 317), 720 (trial n. 89).

⁷¹ G. PRONTERA, *Medici, medicina e riforme nella Firenze della seconda metà del Settecento. Società e storia*, 1984, 26, 802.

⁷² A. SCOTTI, *Malati e strutture ospedaliere dall'età dei Lumi all'Unità*. In: F. DELLA PERUTA, ed. *Storia d'Italia. Annali 7, Malattia e medicina*. Torino: Einaudi, 1984, pp. 237-296.

⁷³ Santa Maria Nuova became a model for foreign rulers that wanted to visit it. R. PASTA, *L'Ospedale e la città: riforme settecentesche a Santa Maria Nuova. Annali di storia di Firenze*, 2006, 83-98.

⁷⁴ A. BELLINAZZI, *Maternità tutelata e maternità segregata. L'assistenza alle partorienti povere a Firenze nell'età leopoldina*. In: Lamioni, *Istituzioni e società*, pp. 509-536. A. BELLINAZZI, *La scuola di Ostetricia di Firenze fra Settecento e Ottocento. Obiettivi e risultati di un progetto politico. Bollettino di demografia storica*, 1999, 30, 35-56. G. PRONTERA, *Medici, medicina e riforme. About another Tuscan reality*, F. VANNOZZI, ed. *Figure femminili (e non) intorno alla*

rate of child mortality that in the eighteenth century fluctuated from a quarter to a fifth of all births.⁷⁵ Therefore, the recent tight relationship promoted between the hospital and the state, the growing interest in children's health and in the treatment of venereal diseases might have led Maria's parents to think doctors would not keep silent about their daughter's assault. At the end, although the medical report had not been written, Maria's story was acknowledged by the police and, after investigations, passed on to the court as this case could not be solved through the *procedura economica*.

What then did the penal code establish in cases of violent rape, and how did the law classify sex with children? The *Codice leopoldino*, introduced on 30 November 1786, addressed these two topics in the same section:

The punishment for a rape committed with violence shall be public labour⁷⁶ for a certain time, or for life, according to the nature of the case [...] And public labour for a certain time shall also be the punishment of rape, although without violence, on a virgin not yet arrived at the age of puberty, if it has been consummated; but if it has been only attempted, the punishment shall be banishment or confinement, according to the degree and quality of the attempt, and a constant satisfaction⁷⁷ to the young women, not only on account of the injury, but of the dishonour annexed to it.⁷⁸

The translation of this paragraph from Italian into English dates from 1789. Indeed, at the end of the eighteenth century, the *Codice leopoldino*, regarded as the peak of the enlightened politics promoted in Tuscany, was

nascita. La storia in Siena dell'assistenza alle partorienti e al nascituro, XVIII-XX secolo. Siena: Protagon editori, 2005.

⁷⁵ G. HANLON, L'infanticidio di coppie sposate in Toscana nella prima età moderna. *Ricerche storiche*, 2003, 2 (113), 455.

⁷⁶ This is a literal translation of *lavoro pubblico* that refers to the use of hard labour as a punishment, a form of 'penal labour'. See Glossary.

⁷⁷ 'Constant satisfaction' means 'financial support'.

⁷⁸ Edict of the Grand Duke of Tuscany, for the reform of Criminal Law in his dominions; translated from the Italian; together with the original (Warrington, 1789). In: D. ZULIANI, *La riforma penale di Pietro Leopoldo. Edizione critica della legge toscana del 30 Novembre 1786 con un indice lessicale, un prospetto delle riforme successive e i testi delle traduzioni coeve in lingue*. Vol. 2. Milano: Giuffrè, 1995, p. 944.

translated into several foreign languages.⁷⁹ Inspired by Beccaria's *Dei delitti e delle pene* and by the thought of other contemporary jurists, from Mirabeau to Brissot de Warville, it broke with tradition by the abolition of death penalty and torture and by its attempt to establish a correlation between crimes and penalties that were mitigated. While its novelty should not be dismissed, the break with the past was by no means total. Apart from the overlap in the structure between law and legal proceedings, some contents show continuity with the past together with respect of Tuscan costumes.⁸⁰ For instance, while in other Italian states the 'simple rape' crime was abolished at the end of the eighteenth century, the Tuscan penal code preserved it.⁸¹ Even the section dealing with violent rape and sex with children proves a strong link to the previous centuries. Indeed, in Tuscany sexual violence had been strictly condemned by law since the sixteenth century. The edict promulgated by Cosimo I on 2 December 1558 was against those people who did violence to women or men in order to satisfy their sexual desire. If the rape had been only attempted, the penalty was confinement on a galley; if it had been consummated, the defendant would suffer capital punishment. The keyword in this law was 'violence'. Indeed, the edict continued, adding the following sentence: 'if a rape was only attempted, but weapons were used, the punishment would be the capital one'. The presence and degree of violence, obviously a material one, was central in defining penalty. A further evidence of the main role played by violence was given by the fact the simple rape was left to mild statutory penalties.⁸² As Elena Fasano Guarini points out, Cosimo's attention to sexual violence reflected the general trend of a period of deep religious tension and the paternalistic care for the weak and the unprotected which characterized late Renaissance princely ideology. Elsewhere too in the sixteenth century penalties for violent rape were made harsher.⁸³ Nevertheless,

⁷⁹ FASANO GUARINI, PETRALIA, PEZZINO, ed. *Storia della Toscana*, p. 15.

⁸⁰ DIAZ, MASCELLI MIGLIORINI, MANGIO, *Il Granducato di Toscana*, p. 387.

⁸¹ 'Simple rape' was a sexual intercourse with a virgin or widow not followed by marriage. See G. ALESSI, *Processo per seduzione. Piacere e castigo nella Toscana leopoldina*. Catania: PME, 1988.

⁸² See D. LOMBARDI, Il reato di stupro tra foro ecclesiastico e foro secolare. In: S. SEIDEL MENCHI, D. QUAGLIONI, ed. *Trasgressioni. Seduzioni, concubinato, adulterio, bigamia (XIV-XVIII secolo)*. Vol. III. Bologna: Il Mulino, 2004.

⁸³ E. FASANO GUARINI, The prince, the judges and the law: Cosimo I and sexual violence, 1558. In: T. DEAN, K.J.P. LOWE, ed. *Crime, society and the law in Renaissance Italy*. Cambridge: Cambridge University Press, 1994, p. 139.

Lucrezia Troiano's research shows how the *Otto di Guardia e di Balia* never applied the capital punishment and never imposed really strict sentences. As other contemporary courts, judges appeared to be severe only in cases in which the so-called *puellae* – girls under thirteen – were involved.⁸⁴ The *Codice leopoldino* echoed the earlier legal system's fierce condemnation of violent rape by establishing the harshest penalty for it, namely *pubblico lavoro* for life. In addition, it clearly stated that having sex with a virgin who had not yet arrived at the age of puberty (*puella*) was a great crime whether or not there was physical violence. Therefore, the guilty party would have been punished harshly, by *pubblico lavoro* for a certain time or by confinement. It should be highlighted that, although penalties were harsh, they did not include the most severe, that was *pubblico lavoro* for life. How was this code applied in court? To answer this question it is useful going back to Maria's story.

During investigations witnesses were examined. Maria recounted that the husband of her teacher put 'something in the place where she urinates' making her suffer pain. The defendant, Natale, said 'he only gave her a spanking on her legs because she used to stretch out on the floor showing her natural parts without modesty'. Natale's master testified that the defendant had spoken the same words to him. As might have been predicted there were no witnesses to the sexual intercourse. All those interrogated had been informed about the facts by either Maria or Natale. How to discover what really occurred? Any medical report might have played a crucial role.

Maria was visited twice. On 27 June 1790, the doctor and the surgeon stated that she had yet to reach puberty and that her hymen had been torn. Nevertheless, the latter might have been torn for reasons other than penetration. Hymen, the old-fashioned sign of women's virginity, had started to be included in medical essays since the sixteenth century and its real existence had been

⁸⁴ G. MARTINI, Rispetto dell'infanzia e violenza sui minori nella Venezia del Seicento. *Società e storia*, 1986, 34. W.G. NAPHY, 'Under-age' sexual activity in reformation Geneva. In: G. ROUSSEAU, ed. *Children and sexuality. From the Greeks to the Great War*. New York: Palgrave Macmillan, 2007. L. TROIANO, Moralità e confini dell'Eros nel Seicento toscano. *Ricerche storiche*, 1987, 2-3 (XVII), 237-259.

questioned by many doctors over centuries.⁸⁵ From the point of view of those who firmly believed in its reality, the hymen might have been torn by many elements not only by sexual intercourse. This idea seems to be shared by Florentine doctors who very often reported the hymen might have been torn by 'a piece of wood, a finger or a penis'.⁸⁶ In addition, they showed to know thesis about which women's body, apart from hymen, had other virginity's signs, such as the 'fraenum', namely the frenum or frenulum, a small fold of mucous membrane.⁸⁷ Maria's 'fraenum' was untouched suggesting she was still virgin and consequently, her hymen might have been torn by an inner element. The importance of taking into account the 'fraenum' was supported in the well-known work written by the German doctor Joseph Jacob Plenck at the end of the eighteenth century.⁸⁸ By referring to the 'fraenum' Florentine doctors tried to look for every element that led them to avoid taking a stand and, to a certain degree, they supported the idea well expressed by jurists in the groundwork of the *Codice leopoldino* according to which a rape towards a child was usually attempted and never really completed.⁸⁹ Maria was seen by the same doctors a couple of months later, on 19 August 1790, and they stated her hymen was not torn anymore showing 'how signs of virginity were not definitive' and they ended their report with the following sentence 'We remember that in this case, much more than in other cases, we are very doubtful [...] we let legal investigation cast light on this story.'

Medical reports could be central in investigations. Indeed, the loss or not of girls' virginity would have signalled the difference between a completed and an attempted rape. Nevertheless, by not taking a clear stand, doctors supported the arbitrary sentence of judges. By stating the hymen might have been torn by various objects, they allowed judges to discount their reports when establishing the guilt or otherwise of defendants. For instance, in 1797 Maddalena had her hymen torn, but this proof was not enough to demonstrate

⁸⁵ G. SISSA, La verginità materiale. *Quaderni storici*, 1990, 3 (75), 739-756.

⁸⁶ ASF, STG: 218 (trial n. 116), 227 (trial n. 79), 415 (trial n. 13), 556 (trial n. 17), 595 (trial n. 178), 610 (trial n. 251), 667 (trial n. 120).

⁸⁷ ASF, STG: 595 (trial n. 178), 617 (trial n. 348), 618 (trial n. 377), 626 (trial n. 503).

⁸⁸ G.J. PLENCK, *Elementi di medicina e chirurgia forense*. Venezia: Francesco di Niccolò Pezzana, 1783, pp. 103-104.

⁸⁹ ZULIANI, *La riforma penale di Pietro Leopoldo*, p. 523.

Romoaldo really raped her as the girl testified. As the judges wrote in their sentence, ‘after all there was only her deposition’.⁹⁰ This occurred when the hymen was torn. How did judges behave when the hymen was intact as in Maria’s case? Obviously, rape was totally excluded. In their sentence, they wrote that there could have been criminal *atti impudici* but there was not much evidence.⁹¹ After all, Natale spoke only about ‘spanking among legs’ removing sexuality from the act. Nevertheless, in a case that took place in 1800 in Peretola, although the defendant clearly admitted to have had *atti impudici* with a young girl, he was not condemned.⁹² Is it possible to conclude that approaches towards children were tolerated to a certain degree?

‘Bravery together with shyness’:

Assunta, Giovacchino and Gaspare, 1804

On 27 December 1804, Vincenzo, a Florentine dyer, presented himself before court. Although the political régime had changed, Vincenzo still found himself in front of the *Supremo Tribunale di Giustizia* as had been the case for Natale. Vincenzo denounced two brothers, Giovacchino and Gaspare, aged 27 and 30, for having sexually assaulted his daughter, Assunta, who was twelve years old.⁹³

It was the only trial dealt with by the *Supremo Tribunale di Giustizia* from 1786 to 1808 that followed a personal report to the court. Usually, as Maria’s story showed, denunciations of violent rape came from the police station, *ex officio*, protecting the actual accuser from being charged with ‘slander’. Why did Vincenzo make this choice? As his daughter had already had her twelfth birthday, he might have thought Assunta would have been regarded as an adult woman. Usually, women did not denounce violent rape because violence was very difficult to prove and they charged men with

⁹⁰ ASF, STG: 469 (trial n. 215).

⁹¹ ASF, STG: 236 (trial n. 114).

⁹² ASF, STG: 556 (trial n. 17)

⁹³ ASF, STG: 699 (trial n. 129)

‘simple rape’, that was a sexual intercourse with a virgin or widow not followed by marriage.⁹⁴ In these cases, charges had to come from the victims or relatives. Nevertheless, Vincenzo might have believed that a private solution could be achieved during the trial and a mere personal charge could be withdrawn.

This second possibility does not seem improbable considering that Vincenzo, before going to the court, had already tried to solve the conflict privately. The attempt to settle conflicts without appealing to the public authorities, very common in the early modern age, seems to have been the norm even at the end of the eighteenth century in Florence as elsewhere.⁹⁵ Maria’s parents had not wanted to denounce the ‘abuse’ either, and, in fact, the individual who made the denunciation to the police constable in Santo Spirito remained unknown. Nevertheless, it should be highlighted the master of Maria’s father was prone to keep the silence in order to save Maria’s ‘respectability’ and, unlike the girl’s parents, he had the financial means to find a doctor who was willing to cure Maria without writing a medical report. This detail might suggest that wealthy people reached private settlements more easily, which would explain their near total absence from trial records. Indeed, defendants and girls came from the lowest social classes: they were shop boys, farm labourers, artisans, servants, seamstresses and silk workers.⁹⁶ The absence of the wealthy classes in trials for rape was not a novelty: Lucrezia Troiano has detected the same pattern in seventeenth-century cases.⁹⁷ As Assunta’s story shows, people used to look for private solutions and, generally it was only when they could not settle the affair privately that they would appeal to the public authorities. Prior to going to court, Vincenzo, Assunta’s father, asked for help from the local priest. Although the government had attempted to

⁹⁴ ARRIVO, *Seduzioni, promesse*.

⁹⁵ See: TROIANO, *Moralità e confini*. ARRIVO, *Seduzioni, promesse*. D. LOMBARDI, *L’odio capitale, ovvero l’incompatibilità di carattere*. Maria Falcini e Andrea Lotti (Firenze, 1773-1777). In: S. SEIDEL MENCHI, D. QUAGLIONI, ed. *Coniugi nemici. La separazione in Italia dal XII al XVIII secolo*. Bologna: Il Mulino, 2000. With reference to other Tuscan realities: O. DI SIMPLICIO, *Peccato, penitenza, perdono. Siena, 1575-1800. La formazione della coscienza nell’Italia moderna*. Milano: Franco Angeli, 1994; C. LA ROCCA, *Tra moglie e marito. Matrimoni e separazioni a Livorno nel Settecento*. Bologna: Il Mulino, 2009.

⁹⁶ See Table 8, p. 196. For a general overview throughout the whole century, see Tables 5 and 6, pp. 194-195.

⁹⁷ TROIANO, *Moralità e confini*, 242.

undermine religious powers through judicial and police reforms, priests as in earlier centuries still played an important role in solving conflicts as Georgia Arrivo has already demonstrated.⁹⁸ In addition, from Pietro Leopoldo's reign onward, priests started to collaborate with the state.⁹⁹ This partnership seemed to be confirmed by Assunta's story. The local priest, after having been informed by Vincenzo, sent a very threatening letter to the boy accused of having assaulted Assunta. The priest suggested that the accused boy find a way of making restitution to the child; otherwise, her father would have him charged with rape before the secular court that would, like god, condemn his crime. The priest wrote:

I have heard from the little girl's own mouth that, through your lack of religion, want of respect, and abominable malice, you and your brother destroyed her innocence. With all the bitterness of my heart I weep for your impious behaviour, which proves you do not know what the holy fear of God is. Listen to your priest who says together with the Holy Spirit that the days of the impious men will be cut off and their end will be awful. Remember that I know something about you that I spare to mention here [...] if you do not think to involve someone else able to solve this problem in an amicable way, the solution has already been established, all the facts will be reported to the Supremo Tribunale di Giustizia. Remember the crime you committed is not only against the law of God [...] but it is also abominable in the eyes of human law, which punish it with harsh and exemplary severity.¹⁰⁰

Similarly in another case of a sexually assaulted child that took place near Florence, at Peretola in the 1800, the priest suggested that the family appeal to the court.¹⁰¹ Attempts to solve conflicts privately seem to have been instigated, fostered, and appreciated by the institutions too. On 22 April 1786,

⁹⁸ For the early modern age, see: LOMBARDI, Il reato di stupro. G. ARRIVO, Storie ordinarie di matrimonio difficili. Assunta Tortolini e Giuseppe Mazzanti di fronte al Supremo Tribunale di giustizia di Firenze. In: SEIDEL MENCHI, QUAGLIONI, *Trasgressioni*, pp. 597-618.

⁹⁹ C. FANTAPPIÈ, Promozione e controllo del clero nell'età leopoldina. In: Z. CIUFFOLETTI, L. ROMBAI, ed. *La Toscana dei Lorena. Riforme, territorio, società. Atti del convegno di studi (Grosseto, 27-29 novembre 1987)*. Firenze: Olschki editore, 1989.

¹⁰⁰ ASF, STG: 699 (trial n. 129).

¹⁰¹ ASF, STG: 556 (trial n. 17).

the President of the *Supremo Tribunale di Giustizia*, before formulating the final sentence of a case of a sexually assaulted child, wrote:

The crime with which the defendant is accused is from the perspective of good government one that should be addressed in the confessional rather than the Tribunale di Giustizia. Nevertheless, although it should be better that these crimes stay in the dark of the confessional where the dispensation is given, if they come to light even through unreliable means, the judge is obliged to punish them in an exemplary way. This works especially in this case where people were caught red-handed, which could only have resulted in public scandal.¹⁰²

In Assunta's trial the *assessore* Stradetti, the first judge appointed to formulate the sentence before the *auditore*, the second judge, and the President, wrote a summary of the story stating clearly that he appreciated Assunta's parents for having tried to solve the matter privately before appealing to the court. Only after they had lost every hope of achieving a private solution, did they go to the *Supremo Tribunale di Giustizia*.

Vincenzo, Assunta's father, used a public institution as a mean to safeguard his honour. This story is reminiscent of Marianna Scartabelli's case, which has been studied by Alessandra Contini. Marianna was a woman, aged twenty-six and living in Florence at the end of the eighteenth century. She used public institutions, both police and court, as complementary means to private ones, in order to oblige her boyfriend to get married after having had sex. Marianna fought a battle to save her honour.¹⁰³ The latter was in danger because 'people' knew she had had sex with her boyfriend resulting in pregnancy. Honour, strictly related to virginity, was a 'category subject to public evaluation, value placed by a social group on their members.'¹⁰⁴ In addition, as Giovanna Fiume points out, honour might be recovered after being

¹⁰² ASF, STG: 203 (trial n. 54)

¹⁰³ A. CONTINI, Verso nuove forme di regolazione dei conflitti: la vicenda di Marianna Scartabelli (Firenze, 1793). In: SEIDEL MENCHI S., QUAGLIONI D., ed. *Trasgressioni*, pp. 573-595.

¹⁰⁴ G. FIUME, ed. *Onore e storia nelle società mediterranee*. Palermo: La Luna, 1989, p. 11.

lost: honour was a category that could be negotiated.¹⁰⁵ In Marianna's case, the woman wanted to retrieve it through marriage. In cases of sexually assaulted female children, they did not have this opportunity because girls had to be twelve years old to get married legally. Nevertheless, Assunta, at the beginning regarded as a child because she had yet to reach puberty, had already had her twelfth birthday. Consequently, her father might have hoped for marriage or just financial compensation. Vincenzo, like Marianna, was fighting a battle aimed at recovering his family's honour that was strictly connected to women's sexual habits. Still, in the eighteenth century, respectable families were expected to control their women's sexuality.¹⁰⁶ Assunta's father was fighting a battle that involved all his family.

After Vincenzo's denunciation on 27 December 1804, investigations were conducted. They usually were focused on the girl. Officers of the law wanted to know details about the place, the time, the manner of the assault, and the people aware of the facts. Sometimes the officials' questions to the girls were euphemistically meticulous. For instance, when Maria was describing how she had been assaulted on 18 May 1796 en route to school by a man, she added that on that day she had been wearing *campanelle*, earrings made of a gold-coloured metal, and that her assailant had managed to unclip one of them. Although in the presence of an eyewitness of the assault, the public authorities wanted to know all details so much so that they finally asked the girl whether someone saw her with the clip of the *campanella* open.¹⁰⁷ If girls' accounts were not accurate and consistent, they were not believed as in cases of Maria in 1797 and Maddalena in 1802; according to judges, these girls did not deserve to be trusted because they changed their stories many times.¹⁰⁸

Behind the expectation that children had to be consistent, there was the suspicion that they might lie. Sometimes this prejudice came out clearly,

¹⁰⁵ IBID, p. 13.

¹⁰⁶ TROIANO, *Moralità e confini*. With reference to another Italian reality, see also S. CAVALLO, S. CERRUTTI, *Female honour and social control of reproduction in Piedmont between 1600 and 1800*. In: E. MUIR, G. RUGGIERO, ed. *Sex and gender in historical perspective*. Baltimore: Johns Hopkins UP, 1990, pp. 73-109.

¹⁰⁷ ASF, STG: 434 (trial n. 188).

¹⁰⁸ ASF, STG: 434 (trial n. 188), 618 (trial n. 377).

although children's agency was to some extent ignored and judges tended to believe that any mendacity was a consequence of their having been manipulated by someone else. For example, in 1795 the inn keeper Valentino was believed have been wrongly accused of having assaulted the nine year-old Carolina who was supposed to be influenced by her mother, an actress.¹⁰⁹ In the same year another girl, aged eight, was believed to have been persuaded by her mother to accuse the painter Antonio of rape: 'her mother might have seen the opportunity to improve her status.'¹¹⁰ In 1798 even Assunta, aged nine, was believed 'to be incited by some malevolent person' to charge the shopkeeper Mattia with rape.¹¹¹

How could children prove that they should be trusted? Their narratives had to be accurate, but not absolutely. Children were expected to be clear about the 'frame' of the sexual assault, that is the place, the time, and the person accused, but not about the act itself. One proof of still being a child, or rather of being an innocent child, was ignorance about sex. Officers of the law tried to check their knowledge by doing research on their daily behaviour and by asking girls 'have you ever had this kind of familiarity with someone else?' Alternately, they checked what girls knew about men's bodies by asking questions such as 'did you understand what the thing the man had was?' They clearly did not use a correct terminology probably in order not to 'corrupt' girls by teaching them sexual notions. Parents appeared to share the same concern. Maria's father, in the story described above, said he did not ask the girl many questions in order not to make her *maliziosa*. This Italian adjective is a key-word of these trials and means having sexual knowledge. Yet nearly all the girls described the assaults using the same 'inaccurate' words, displaying their ignorance about sex. They used to indicate their genitals by the sentence 'down, between my legs' or by the generic word 'crevice' suggesting they really did not know the sexual function of their privates. Alternately, they used expressions such as 'the place where I urinate' implying ignorance of sexual nature of their genitalia. Girls might have used this language because they

¹⁰⁹ ASF, STG: 384 (trial n. 12).

¹¹⁰ ASF, STG: 410 (trial n. 274).

¹¹¹ ASF, STG: 489 (trial n. 153).

knew they were expected to do so. As Daniela Lombardi suggested with regard to adult women, this ‘ignorant’ language could be seen not only as a means to obtain a result but also as a demonstration of their awareness that only ‘innocent’ girls deserved to be protected.¹¹² Girls, during their description of the sexual act, on the one hand, showed total ignorance about sex by using inaccurate words; on the other hand, they proved they knew something wrong happened by calling the act ‘scurrility’ or by justifying their early silence saying they felt shameful. Adult women, as Georgia Arrivo has recently stated, used a similar language. Were women to a degree expected to be always childlike? Probably young girls were supposed to be more ignorant than adult women; they had to show total ignorance. This can explain why penis was generally named ‘thing’ and very often girls added: ‘I do not know what it is’. This ignorance was a double-edge sword: on the one hand, it was necessary for girls to prove their ‘innocence’; on the other hand, it supported the ‘elusiveness’ of rape. The image of childhood that comes out from trials follows a clear dichotomy: there were the ‘innocent’ children whose telling was ‘candid’¹¹³; and then there were girls showing extraordinary *malizia*. What divided the two groups was sexual knowledge. Defendants, in order to defend themselves, used to accuse girls of being *maliziose*. Probably they knew that by showing girls’ *malizia* their responsibility was to some extent reduced or totally excluded: the offence became less serious than the sexual assault of an ‘innocent’.

Going back to Assunta’s story, what category did she belong to: that of the innocents or that of the *maliziose*? From the *assessore* Stradetti’s summary it emerges that witnesses were asked about Assunta’s conduct. Her teacher made it clear that the child was very calm and an excellent pupil. A midwife described her as a very shy girl, while a neighbour depicted Assunta as a very good child, ‘able to take care of herself’. The judge concluded that Assunta’s honesty was proved by these three witnesses, supported by the very reliable testimony of the priest. In addition, the *assessore* Stradetti pointed out that, during her examination, the girl had displayed ‘bravery together with shyness’.

¹¹² LOMBARDI, Il reato di stupro, 360

¹¹³ ASF, STG: 667 (trial n. 120).

This sentence summarises how a girl should behave in court in order to prove she deserved to be trusted and protected: she had to be resolute and coherent, but she was expected not to speak about sexual matters without shame. Girls had to find a balance between bravery and shyness.

The judge Stradetti underlined another feature of Assunta's conduct that proved her innocence. When 'the flower of her virginity' was being gathered, she screamed and cried. She tried to resist the man whose violent behaviour was emphasised by the *assessore*. From Stradetti's point of view, it was right to take violence for granted when a child was assaulted, because it was notorious that girls, who had not reached puberty yet, 'abhorred coitus'. It is self-evident that there was a contradiction in the judge's words: if he believed it was right giving the violence for granted when the injured parties were under twelve, why did he look for proofs of the suffered violence? Why did he stress there were no doubts about Assunta's innocence given her consistent and candid narrative and her attempt to resist the man? It is clear there was a gulf between the law, that did not need evidence of violence when the injured party was a child, and the judicial practice, that looked for proofs.

What was the end of Assunta's story? The girl appeared to be innocent and therefore deserving of being rewarded. Nevertheless, medical reports made the story more complicated. Soon after the girl's confession to her parents, they brought her to the local midwife, who was able to confirm that the girl had lost virginity. The *Supremo Tribunale di Giustizia* wanted her to be seen by the doctor and the surgeon, as in the case of Maria. At the end of the eighteenth century midwives were regarded more and more as ignorant and incompetent.¹¹⁴ Conversely, the importance given to surgeons grew. On 3 January 1805, six days after Vincenzo's denunciation, the doctor and the surgeon established that Maria had not reached puberty, and that she was no longer a virgin. Indeed, the hymen was torn by an outside object that could be 'a piece of wood, a finger or a penis'. As in Maria's case, the reports were ambiguous. On 7 March 1805 the same doctor and surgeon wrote down

¹¹⁴ COLUCCIA, Indagine tecnico-scientifica.

another report without seeing Assunta again, and they asserted the first report was wrong. They had just discovered girl's age at the time they saw her for the first time. She had already had her twelfth birthday and, consequently, although she had not reached puberty yet, she was legally *viripotente*, that meant 'able to have sex with men and get married'. This different second report changed the nature of the crime: instead of a sexual violence towards a child, it was a rape of a woman. So far officials and judges were aware of Assunta's age. Indeed, the *assessore* Stradetti had written in his summary that many girls who were twelve years of age had yet to reach puberty; from his point of view, puberty, that was the ability to get pregnant, came only after having had menstruation. Assunta had not had her first period yet. Why did the doctors change their mind? What happened between the first report and the second?

On 5 March 1805, two days before the second medical report, Assunta's father, after having been charged with slander by the defendant, showed to the court a document, written by the above quoted priest because he was illiterate, in which he renounced the case. This was possible only in a case of rape towards a woman. Later the slander charge was withdrawn too. The last document, signed on 29 March 1805 by the *assessore*, the *auditore* and the president, ordered an end to the trial. This case clearly shows that both doctors and judges willingly tried to avoid the final sentence and they supported private settlements.

Both Assunta's story and Maria's ended with the interruption of proceedings. Were there exceptions? No. The majority of trials ended through interruption or by the procedure being left open. When passing sentences, in order to justify the no-conviction, judges resorted to reasons, such as 'there is only the child's deposition', 'girl was inconsistent in her telling', and 'someone led her to lie'.

Although the penal code established harsh penalties towards men charged with violent rape, the general trend in courts was not to punish defendants. Over twenty-nine trials, only five ended with a conviction.

Nevertheless, while in the seventeenth century the majority of victims of violent rape were widows or prostitutes, from 1786 to 1808 girls under twelve were prevalent.¹¹⁵ This change suggests that people, as detected in France by Georges Vigarello, resorted more and more to justice in case of sexually assaulted children.¹¹⁶ How to explain this increase in charges? The fact people appealed to public authorities only after having unsuccessfully tried to solve conflicts privately leads us to think that the change was due to a growing failure of private settlements. After all, if the majority of trials ended without a conviction, people accused of having assaulted young girls could have found it more convenient to be put before judges instead of looking for private solutions. For instance, in 1801 Giovanni, accused of having assaulted a girl aged seven, refused to benefit from the pardon given by the new ruler Ludovico and to proceed with the trial that, unsurprisingly, was left open.¹¹⁷

How to explain this usual impunity? Probably, despite the fact that in Florence at the beginning of the nineteenth century rulers promoted actions to improve children's lives, the reputation of adult men appeared to be more worthy than the protection of children: sentencing a man for violent rape could have meant to partly destroy his reputation. This could explain why the few defendants convicted by the *Supremo Tribunale di Giustizia* belonged to the lowest social classes. Three over five were servants: in other words, their reputation could be undermined.

‘He was ripping my body in two’:

Elvira and Cosimo, 1811

1st May 1811: a small man wearing black velvet shoes, green fustian trousers, and a white linen shirt stood opposite the investigating judge of the *Tribunale di Prima Istanza* in Florence. First, he was asked about his personal data. His

¹¹⁵ TROIANO, *Moralità e confini*, 249. ARRIVO, *Seduzioni, promesse, matrimoni*, p. 62.

¹¹⁶ G. VIGARELLO, *A history of rape. Sexual violence in France from the 16th to the 20th century*. Translated from the French by Jean Birrel. Cambridge: Polity Press, 2001, pp. 75-86. First published as *Histoire du viol, XVIe-XXe siècle*. Paris: éditions de seuil, 1998.

¹¹⁷ ASF, STG: 595 (trial n. 178).

name was Cosimo, he was 21 years old and he was a milliner. Second, he was asked whether he knew the reason of the examination. Yes, he did. Cosimo was informed on by a man, the actuary¹¹⁸ Giò Batta, for whom he used to work sometimes attending to housekeeping. Giò Batta shared a home in via Santa Maria with another copyist, Gaetano, who had accused Cosimo of having sexually assaulted his seven year-old daughter, Elvira. The latter did not live with her father, but with her aunt. Nevertheless, sometimes she used to visit her father's place as she had done on the Easter day when Cosimo allegedly 'touched' her twice. The defendant firmly denied the charge: he had never been alone with the little girl.¹¹⁹

The background of this story was quite different from that of the cases of Maria and Assunta. Since 1808 Tuscany had become part of metropolitan France, the system of justice conformed to the French one, with the *Supremo Tribunale di Giustizia* now replaced by the so-called *Tribunale di Prima Istanza*. This court from 1808 to 1814 addressed only two cases of sexually assaulted girls.¹²⁰ Why so few cases? To answer this question, both the law and Elvira's trial provide useful clues.

In 1811 the penal code in force was the *Code pénal de l'Empire Français* drawn up the year before. The article 331 ruled: 'whoever has committed the crime of rape or is guilty of any other indecent assault committed or attempted with violence towards people of both sexes will be punished with detention.' The following one, the article 332, specified: 'when the crime has been committed against someone under fifteen, the felon will be punished with forced labour for a determined time.'¹²¹ As in the *Codice leopoldino*, a rapist of someone who had not yet reached puberty was punished with 'forced labour for a determined time': this penalty was harsher than imprisonment, but it was

¹¹⁸ 'Actuary' is the translation for the Italian *scrivano* and it is here used with the old meaning of someone appointed to write formal documents.

¹¹⁹ ASF, Tribunale di Prima Istanza di Firenze, sezione correzionale (TPIC): 33 (trial n. 871)

¹²⁰ ASF, TPIC: 82, Registro dei processi risolti dal Tribunale Correzionale dall'anno 1808 a tutto il dì 8 luglio 1814.

¹²¹ *Code pénal de l'empire français. Edition conforme à celle de l'imprimerie impériale*. Paris: Prieur, Belin fils, Merlin, 1810.

not among the harshest.¹²² Notwithstanding the similarity in penalty, there were two important differences: first, the time when someone was expected to reach maturity was no longer twelve, but fifteen; second, it was not written that sex with someone under fifteen was a crime even if without violence. The French penal code, both that of 1791 and that of 1810, refused uncertainty; it expected to establish guilt and innocence with no doubts. Women's words, and clearly also girls' words, were not to be trusted in absence of real proofs. Women's honesty, and also that of young girls, could not to be taken for granted in any case. Their morality had to be demonstrated by clear proof, such as traces of violence on their bodies. By searching for visible evidence jurists wanted to avoid 'abuses'; the idea that women, and sometimes their families, used to charge men with rape in order to gain money or improve their social status by marriage was widely held; in other words, concern about female lying was common.¹²³ This fear, as seen in the previous paragraphs, had already been present in the cases addressed by the *Supremo Tribunale di Giustizia* despite the fact the *Codice leopoldino* preserved the crime of 'simple rape' and theoretically, violence was not required in case of the rape of children. Police constables and judges under the Grand Duchy of Tuscany, and then during the Kingdom of Etruria, had not been alien to this pursuit of visible evidence even in trials involving children. Nevertheless, under French domination, this pursuit became obsessive. This probably explains why when girls recounted their experiences to the authorities they came to stress violence as never before. Rosi was twelve years old and she had been sexually assaulted more than once by a 55 year-old farm labourer while she was collecting grass in a field of rushes close to the man's house. Rapes took place in San Lorenzo a Uzzo, a village in the district of Pistoia, and they were addressed by the *Corte Criminale* in Florence. The girl was examined on 22 August 1809:

Question: Has something recently happened to you?

Answer: I have been hurt at the bottom of my body by Antonio G., my neighbour.

¹²² The hierarchy of penalties from the harshest to the mildest ones was: 1. Death; 2. Hard labour for life; 3. Expulsion; 4. Hard labour for a determined/fixed time; 5. Reclusion.

¹²³ G. CAZZETTA, *Praesumitur seducta. Onestà e consenso femminile nella cultura giuridica moderna*. Milano: Giuffrè, 1999, p. 232.

Question: What kind of pain did he inflict at the bottom of your body?

Answer: Four times he hurt me and he raised my front skirt in the grave close to his field of rushes. My mother used to send me there to collect grass [...] He used to grab me and say that he would have given me money and he promised me things and he said to me 'baby, come here'. I did not go and he bent my arm and he threw me supine into the grave and he unbuttoned his trousers and he raised my skirt and he mounted me. I cried because I felt like he was ripping my body in two and he blindfolded me with a hanky and he kept one hand on my mouth to prevent me from crying strongly and after a while he let me go away, and he stated [...] if I told my mother what happened, he would kill me.

Question: When did what you are describing occur?

Answer: It is thirty or thirty-five days since he mounted me for the first time [...] after seven or eight days later in the morning [...] he hurt me much more than the first time and after he stood up I found my whole skirt soaked with blood. The third time I suffered much more and I lost more blood. The fourth time happened the day before S. Lorenzo [...] and on that occasion Caterina and her sister Umiltà found him on me and they saw him run away.

Question: Where exactly in the body did you suffer the pain about which you speak?

Answer: At the bottom of my body between thighs in that small hole through which I usually pee and where I still suffer pain.

Question: Did Antonio G. put something into the above mentioned small hole through which you pee?

Answer: He stretched my thighs, and he put one knee on one of my thighs and then while he was in this way on me he pressed me with his body and he put into the hole through which I pee his thing and I kept shouting and he told me to keep calm and he stopped up my mouth.

Question: Did you see what Antonio put into your small hole through which you pee?

Answer: When he unbuttoned his trousers I saw he had something long between thighs and he put this thing into my hole, but I suffered a so big pain that I was about to faint.

[...]

Question: Did someone else provide you with the same assault and intimacy before?

Answer: Never ever anyone besides him.

[...]

Question: Did you agree with pleasure to Antonio's invitations?

Answer: Signor no (= Sir, no), he always grabbed me by force and in addition he always made me cry.

[...]

Question: Have you still got your blood-stained skirt?

Answer: I washed it the same night

Question: Why did you wash it?

Answer: Because it was dirty.¹²⁴

'He bent my arm', 'he threw me supine into the grave', 'he blindfold me', 'he kept one hand on my mouth', 'he would kill me', 'he always grabbed me by force', 'I suffered a so big pain that I was about to faint': by these sentences, Rosi underlined the violence she suffered. In addition, she stressed her opposition by saying 'I cried' and 'I used to shout'. Last but not least, she tried to tell about visible signs, 'soaked skirt' and 'blood'. The obsessive pursuit of solid proofs is shown by the judge's questions: 'Have you still got your blood-stained skirt?', 'Why did you wash it?' Violence was the main character in Anna's deposition too. Anna was thirteen years old and she was sexually assaulted by a farm labourer in the fields of Poggio Imperiale in Florence. In her deposition on 2 November 1810, she repeated twice that, during the assault, she lost blood, she cried and she shouted, but the man stopped her mouth.¹²⁵ Elvira's account, with which this paragraph starts, was not different from that of the other two girls: she spoke about screams and blood. Nevertheless, unlike Anna's and Elvira's stories, Rosi's experience reached the peak of violence. After her parents discovered what had happened to her, she ran away. She spent one night sleeping next to a hedge and the day after, because she was starving, she asked for food from a family of farmers to

¹²⁴ ASF, Corte di Giustizia Criminale, poi Corte Imperiale: 147.

¹²⁵ ASF, TPIC: 33 (trial n. 871)

whom she said she had no parents. These people invited her to stay in their house; in return for the hospitality, she would collect grass. Nevertheless, one day someone with whom she was acquainted passed where she was staying and recognised her; after having reassured her that her parents would not beat her, Rosi was brought back. When she was asked by judge why she ran away, she answered that the man who had assaulted her one night saw her in the porch of her house and he grabbed her hand by force and he obliged her to run away with him. He showed her a knife and he said to the girl that if she confessed what happened to her parents, he would cut her throat. Then, he left and she ran away. This story was characterised by the violence judges were looking for. In addition, a medical report testified that the girl showed *signi certissimi*, definite physical proofs of the rape. Last but not least, there were two eyewitnesses: Caterina and her sister Umiltà. The defendant was convicted, but the penalty was very mild: he was condemned to one year in prison, despite the fact that the 1791 penal code prescribed six years in irons for rape, and twelve years when the crime was committed on a girl aged less than fourteen.

What happened when violence was not so evident as in this case? *Signi certissimi* of violence were very hard to prove and it is self-evident how important they were to have a shadow of sentence. Probably this explains the paucity of trials for rapes during the period of French domination.

Another point comes out from Rosi's deposition. Apart from the pursuit of real violence, the judge's questions were also aimed at evaluating how much Rosi knew about sex. 'Did someone else provide you with the same assault and intimacy before?' She was asked and her firm answer 'Never ever anyone besides him' shows she might be aware of how much important appearing 'innocent' was. Probably, for the same reason, she used words for genitals that revealed her total ignorance of their sexual functions: vagina became 'the hole through which I pee'; penis turned into 'something long between thighs'. The tendency of not showing sexual knowledge by girls together with the attempt of evaluating their morality by judges had been already present in trials addressed by the *Supremo Tribunale di Giustizia*, but now these behaviours appeared to be emphasized, especially that of public authorities.

Going back to Elvira's trial, the key-word seems to be *maliziosa*. When the defendant Cosimo was examined on 1st may 1811, he was asked by judge 'do you have something wrong to say against the girl, and especially whether she is *maliziosa*?' As shown in the first two paragraphs, also in the past defendants used to accuse girls of being astute seducers, but in this case the suggestion that the girl could be 'dangerous' came directly from public authorities. Elvira's aunt appeared to be aware of judges' insinuations and, when she was asked if her niece used to go out alone, she answered that sometimes she was sent out to do services and she added, although she was not enquired about this, that she had never seen *malizia* in Elvira's behaviour. In this trial it is evident the link between the concept of *malizia* and sexual knowledge. The judge also asked to the aunt if her daughter *amoreggi*, had a thing going, with someone and if Elvira had never been present at their embraces. The woman answered her daughter *faceva all'amore*, had a relationship, with a man that at that moment only used to visit their house in the evening and it had happened Elvira was present at their conversations, but they had always been controlled in their behaviour in order not to make her *maliziosa*. Nevertheless, all witnesses gave a picture of Elvira as a tricky girl who had sexual knowledge. Elvira father's flatmate argued the girl's speeches revealed she was *maliziosetta*; the father of this man that probably used to visit his son's house and interact with Elvira described her as too much lively for her age ('più tosto allegrina per quanto riguarda la sua età'); another tenant in Elvira father's house, a widow aged 46, silk worker, stated that the girl was very astute and she heard her saying that she had seen her cousin kissed by her boyfriend. The servant of the house pointed out Elvira was 'ugly, but very lively'. Conversely, very few words were addressed to the defendant both by witnesses and judges; he was simply defined as a person of good habits. Judges were led to have serious doubts about the girl's honesty. In addition, medical reports did not help to clarify what happened. As Elvira's aunt told, the girl was first visited in the hospital Santa Maria Nuova where a surgeon found that she was no longer a virgin and was suffering from venereal disease. It was this surgeon's report that the girl's father later took to the police when asking that Cosimo be charged. Afterwards the doctor and the surgeon committed by the

investigating judge of visiting Elvira appeared to reject the idea of a rape: the hymen was only in part torn; the vagina's orifice nearly not dilated; the cause was probably an external object, but something like fingers and not penis; the discharge was not caused by sexual contacts but by the irritation she had that was 'very common among female children of all ages, including very little babies'. Unsurprisingly, the trial was suspended. In the sentence the judge wrote that against Cosimo there was only Elvira's deposition; in addition, the girl changed her narrative during investigation and she showed herself provided with *malizia* of someone much older. Also the other trial for violent rape addressed by the *Tribunale di Prima Istanza* was suspended and the reason seems to be very similar: Anna did not show herself worthy of trust. When one of her friends was examined, she argued that 'her mother would have beaten her if she had been as Anna'.

Thus, the *Tribunale di Prima Istanza* from 1808 to 1814 dealt with only two trials for sexual violence against children and both were suspended. Probably, the great difficulty of showing *segni certissimi*, definite physical proofs of the rape, might have discouraged charges.

In court there was not a total break with the past. Even judges of the *Supremo Tribunale di Giustizia* looked for evidence of violence, although according to the law it was not necessary, and they tried to evaluate girls' morality. Nevertheless, during French domination, this approach was overly stressed. Judges of the *Tribunale di Prima Istanza* wanted to have clear proofs of physical violence and the certainty about the real honesty of the girls; the latter was doubtless linked to their sexual conduct and knowledge: indeed, *malizia* was a key-word in these two trials. As Margherita Pelaja underlined, in the nineteenth century there was a shift in the image of the sexually assaulted woman, from being regarded as *praesumitur seducta* to be considered as *praesumitur meretrix*.¹²⁶ Doubtless, in court the suspicious about women's honesty involved also young girls.

¹²⁶ M. PELAJA, La seduzione e l'onestà delle donne. Le contraddizioni dei giuristi. In: A. ARRU, ed. *La costruzione dell'identità maschile nell'età moderna e contemporanea*. Roma: Biblink, 2001, p. 117.

The fact the criteria for evaluating girls' innocence became more rigid could have as a consequence the mitigation of the state control over men's behaviours. In other words, it was so difficult to prove rape that men could have not felt the fear of punishment and they could have felt themselves free to satisfy their sexual desires also by violence. It is true that defendants were nearly all not convicted also by judges of the *Supremo Tribunale di Giustizia*, but we have seen that some servants, whose reputation could be undermined, were punished. Conversely, in the story involving Elvira in 1811 the defendant was a servant defended by witnesses and judges. The fact that also a man coming from the lowest social class was dispensed from a punishment, could it be the proof of a mitigation of the control over men's conduct? Obviously, one case could not give a definitive answer, but it could make a suggestion. After all, other laws of the Napoleonic code, justified with the intention of preserving the legitimate family, appeared to confirm this increasing freedom enjoyed by men, as the prohibition of looking for paternity.¹²⁷ To sum up, as gender history is always a relational history, while women, and girls, were required to pay great attention to their sexual behaviour in order to save honour and reputation as innocents, men could enjoy an increased freedom and, consequently, a major power over women, and girls.

¹²⁷ D. LOMBARDI, *Storia del matrimonio. Dal Medioevo a oggi*. Bologna: il Mulino, 2008, pp. 193-202.

Chapter II

The difficulty of proving female child rape

This chapter consists of three sections. In the first of these I examine trials for the rape of girls under the age of twelve that came before the *Ruota Criminale* (1814–1838), the court established immediately after the Restoration. The Restoration of the Grand Duchy of Tuscany meant the return of the dynasty of the Habsburg-Lorraine. With the restoration of Ferdinando III (younger brother of the Austrian emperor, Francis I) came the reintroduction of the *Codice Leopoldino*, which was still widely seen as one of his father's greatest innovations, as well as the re-establishment of the *Presidenza del Buon Governo* to the head of the police and the abolition of some novelties within the civil code that had been introduced during the French domination (including divorce), not all of which had in fact been widely used. Nevertheless, the break with the previous period was certainly not absolute: the bureaucratic employees were not dismissed; the entire French Commercial code was preserved; and the growing political relevance acquired by the social class of merchants, bankers, and businessmen did not disappear.¹²⁸

My second section focuses on the sentences pronounced by the *Tribunale Collegiale di Prima Istanza* from 1838 to 1849. During these years the population of Florence grew quite rapidly, reaching 100,000 inhabitants.¹²⁹ Unlike the other sections, this one does not start with the telling of a story based around a particular trial because, unfortunately, the documentation for the trials has been lost. This court was established by a criminal reform promoted by the last Grand Duke of Tuscany, Leopoldo II, who ruled the state from 1824 until July 1859. Leopoldo II had to deal with the political unrest of 1848, which led him first to grant a 'statuto' or constitution, and initially to support an Italian patriotic war against Austria. However, as opposition intensified within Tuscany, and the expansionist ambitions of the House of

¹²⁸ G. COPPINI, *Il Granducato di Toscana. Dagli 'anni francesi' all'Unità*. Torino: Utet, 1993, pp. 169- 246.

¹²⁹ A. ZUCCAGNI ORLANDINI, *Ricerche statistiche sul Granducato di Toscana*. Vol.II. Firenze: tipografia Tofani, 1850, p. 49.

Savoy became clearer, Leopoldo fled Florence, first to Siena, and then to the safety of Gaeta, under the protection of the King of the Two Sicilies. When Leopoldo finally returned to his capital in 1849, under the protection of Austrian troops who occupied the state, he began to desert the mild and reformist traditions of Habsburg rule of Tuscany, and gradually to abolish all previous concessions (including the 1848 constitution). ‘He used the narcotic instead of the poniard;’ in other words, the carrot rather than the stick.¹³⁰ In this climate, the Grand Duke increasingly lost political support, and many Tuscans, especially among the better educated classes, began to aspire to national unification under the House of Savoy as, during the 1850s, Sardinia-Piedmont both retained its constitution and became the most dynamic state in the peninsula.

In the third section I analyse trials that took place before the *Tribunale Collegiale di Prima Istanza* from 1856 to 1865. Luckily, for this period we have trials and sentences, while for the period 1850–1855 we have neither trials nor sentences. I chose to describe the activity of this court in two separate parts because in the meantime there had been a change in law: in 1853 the *Codice Leopoldino* was replaced by the *Codice penale toscano*. My case study of Cesira occurred in Florence in 1857: two years later the Grand Duke Leopoldo II left Tuscany for ever, and Florence would enter a peculiar liminal stage of its legal history as part of Italy yet retaining – for the next three decades – its own criminal code.

‘The child kept silent and lowered her head’:

Maria and Isidoro, 1834

On 26 April 1834, the *Ruota Criminale* received an *ex officio* charge against Isidoro accused of having raped the nine year-old Maria.¹³¹ The *Ruota Criminale* had been established in 1814, when the Habsburg-Lorraine dynasty

¹³⁰ C. CECCUTI, *Dalla Restaurazione alla fine del Granducato*. In: LOTTI, ed. *Storia della civiltà toscana*, p. 60.

¹³¹ ASF, *Ruota Criminale (RC)*: 533 (trial n. 101).

was restored in the Grand Duchy of Tuscany, and it dealt with crimes occurring in the whole state and punished with banishment or harsher sanctions. According to the reintroduced *Codice Leopoldino*, violent rape was among these crimes and, as seen in the previous chapter, even sexual intercourse with a girl who had not yet reached puberty, like Maria, was considered to be violent rape even when there was no actual violence. What is the story of Maria and Isidoro?

This story involved two couples, two families that had regular contacts: Isidoro and his wife Rosina; Giuditta and her husband Costantino. In March 1834 Isidoro was living in a street close to the Borgo Ognissanti in the centre of Florence; he lived together with his wife Rosina in a room on the ground floor where he slept, ate and worked as *alabastraio* that means an artisan who worked with alabaster. Giuditta who was a midwife and her husband Costantino lived a few houses away from Isidoro and Rosina. Giuditta's and Costantino's daughter, the little girl Maria, regularly visited Isidoro and Rosina's house where she was employed in domestic services, like sweeping and cleaning. As Maria Casalini points out, in nineteenth-century Florence people from the lowest social classes used not to have servants, but they helped each other.¹³² A few years earlier, Maria used to go to school, but her mother Giuditta wanted her home in order to take care of domestic tasks.

On 15 March 1834, the girl was at the window looking at her mother leaving to attend the baptism of a child just born in the street where they lived. At a certain point the girl heard Isidoro calling her and saying he needed her for domestic services. Maria recounted that soon after she entered into the house the man closed the door and he wanted her to lie down on the bed. He did what she called many times *tradimento*, a betrayal. Scared that her mother would have beaten her and full of shame, Maria decided to keep silent about the incident. Nevertheless, few days later it happened that the girl was in her family's kitchen with Rosina, Isidoro's wife, and another woman. Rosina saw yellow stains on Maria's blouse and she asked her if any man had touched her.

¹³² M. CASALINI, *Servitù, nobili e borghesi nella Firenze dell'Ottocento*. Firenze: Olschki, 1997, p. 34.

As she was in a confessional mood, the girl explained what Isidoro had done to her. Immediately, Rosina ran to her husband to ask him, and when she was back in Maria's house she stated her husband confessed only some *atti impudici* and not real sexual intercourse and above all he added Maria seduced him. The other woman present at this conversation informed Giuditta who decided to go the police in Santa Maria Novella and charge Isidoro.

We know what happened principally from Maria's own deposition, and the report read by a judge at the start of the trial on 26 July 1834. What defence did Isidoro's lawyer mount? Not only did he argue that there was insufficient proof, but he also sought to demonstrate that the girl's initial silence, fused with her previous immorality made her completely unreliable.

If a little girl of the same age of the victim is subjected to the brutal desire of someone else, she could not prevent herself from telling her closest relatives, especially her mother, the violence she suffered, and pushed by the pain she felt, necessarily still alive, she is affected by sentiments natural to all children to tell the most important events that occurred to them [...] Her silence after the supposed violence, this suffering a lively pain without any complains, the fact she kept hidden from her mother what the defendant did to her lead to doubt about the charge.¹³³

The lawyer added that probably, scared by Isidoro wife's discovery of her illicit conduct, Maria wanted to take revenge on this woman by accusing her husband. Moreover, the girl, 'provided with masterly *malizia*', might have believed that her charge would be more plausible if it was directed to a young man close to her. 'There were serious doubts about the girl's honesty' –the lawyer wrote. First, Maria in her deposition stated she had already had discharges a few days before the rape. Second, in 1832 she was kidnapped for two days by men 'whose morality was very uncertain.' Last but not least, a couple testified that her mother Giuditta fostered prostitution in her house. 'Consequently, her young daughter might have learnt very few moral teaching.'

¹³³ ASF, RC: 533 (trial n. 101).

It is true that the girl's depositions were inconsistent. On 8 April she said that she had already had discharges but they disappeared two days before the assault. On 28 May she was asked if really she had already had discharges before the rape and her answer was 'No Signore, if I asserted this, I was wrong because I had nothing earlier. I might have been wrong because I was scared.' So far we have seen the importance of clarity for being trusted. Moreover, Maria's deposition appeared to be weak from another point of view. She had testified that had not shouted. She was asked whether Isidoro had held her by force on the bed and she answered 'no'; the following question was 'did you say anything to him?' and again the answer was 'no because I did not understand what he wanted to do.' Although the law theoretically did not need proofs of violence in case of sexually assaulted children, we have already checked that practically they were always looked for. In order to be trusted, girls needed to show that they had tried to resist their abuser. This is why officers of the law, not satisfied by Maria's deposition, looked for evidence of her resistance by asking other witnesses whether the girl had spoken of her resistance to the violence, but they alleged that they could not remember.

It is also true that Maria had been kidnapped in 1832. She recounted that two years earlier, when she was living in via Palazzuolo, close to the Borgo Ognissanti, she used to go to the school of San Paolino. Once returning from school, a man wanted her to follow him. She resisted, but the man held her and said to the people around who asked him to leave the child alone that she was his daughter and he wanted to punish her. Afterwards the man left the girl in a courtyard telling her to wait there for him. She stayed where she was because she did not know how to go back home till a woman found her. This woman accompanied the girl on foot across Florence and when they arrived in the square of the Duomo, Maria said to her that she knew now how to go back home, but the woman did not allow her to leave and she said to her that if their parents did not come to pick her up she would have brought her to her own house in the countryside. In the meantime a cobbler in the square Santa Trinità confessed to a schoolmate of Maria that he had seen the girl with a *donnaccia*, a far from respectable woman, who lived on the other side of the Arno. The schoolmate reported what she heard to her teacher and the latter told Maria's

parents. This flow of information from the cobbler to Maria's family through the schoolmate testified to a strong social pressure in Florence. Finally, the girl's father started looking for her and he found her in the Piazza Santo Spirito. The story was confirmed by the police who prosecuted both the man and the woman. Maria was asked if any men had been intimate with her during those days, but she answered 'no'.

The last point Isidoro's lawyer underlined was also proved. A couple of married people, neighbours of Isidoro and Maria, questioned the morality of the mother and her daughter. The man, a retired police constable, affirmed that it was known by neighbours that Giuditta 'hawked wares' ('spacciava la sua mercanzia') in her house: in other words, she fostered prostitution. He added her wife defined the girl as *furbina*, *birboncella*, *pazzarella*, that meant 'astute, dodgy, and kooky'. His wife aged 45, and unable to go to the court because ill, was examined in her house. She testified:

after my husband told me the girl had escaped from her house [...] I started to have a bad opinion about her, that those people who wanted to take her away affected her with malizia, and this is more and more confirmed by the fact she seems to me a little insolent; she used to come in my house without permission [...] and I heard she did the same in other houses. This can only be the consequence of the upbringing by her mother because everyone says that in her house every kind of things goes on, and I have even heard that once the house was visited by a Jew with a foreign woman,¹³⁴ and he was not the only one. Wouldn't you know if this girl doesn't have malizia; but the origin is given by her mother that wanted her to behave as an adult woman. Both the profession of midwife and people that usually frequent that house, you can understand ... I heard she has a room available for people who want to use it. So I let you conclude if this girl has or not malizia.'

¹³⁴ The *Codice Leopoldino* punished sexual intercourses between Jews and Christians.

This testimony shows that, not only in court, but even in society it was widespread the idea according to which knowledge about sex led girls to leave childhood and to enter into adulthood ('as an adult woman') becoming *maliziose* and immoral. Conversely, this woman said of Isidoro that he was a good and honest young man proved by the fact he always condemned his wife for sometimes using bad language. All witnesses spoke well about Isidoro.

The latter in his deposition added that Maria's mother probably incited her daughter to lie and charge him with rape because Giuditta wanted some compensation from him for having treated his wife, who had had a miscarriage some months earlier.

Officers of the law, apart from examining witnesses, also wanted Maria to be visited by doctors. Maria had been already visited by a surgeon soon after the assault. Giuditta brought her to Giuseppe's house in via Porta Rossa. Giuseppe was a surgeon in the hospital of Santa Maria Nuova and, when he was examined by the court, he testified he had only seen the girl's external genital organs finding an inflammation he ascribed to tiredness or dirt. He added that if Maria's mother had told him she suspected her daughter had been raped, he would have also examined her internal organs because 'he knew that they (doctors) had the obligation to report assaults.' Why this clarification? It sounds like a justification. Was he lying? We have already seen in the first chapter that doctors rarely reported cases of sexual violence to the *Supremo Tribunale di Giustizia*. Was this reticence still alive? Probably or maybe Giuseppe was telling the truth: Giuditta did not confide her suspicion to him. Was she uncertain about the way of proceeding (to make a charge or not) and did she prefer to keep matters secret? This could explain why she brought the girl to the surgeon's house and not directly to the hospital. In any case, it is self-evident that before appealing to the authorities, people thought about the way to deal with the situation. Obviously, the court wanted Maria to be examined again. Doctors asserted the girl had not reached puberty yet, her hymen had been torn by a solid body possibly a penis, but her fraenum was intact and she did not suffer venereal discharges. The situation appears to get worse and worse for Maria. As the previous chapter had demonstrated, at the

beginning of the nineteenth century rape was defined as not consummated in some trials because of the intact fraenum.

To sum up, Maria kept silent for several days; she was inconsistent; she did not try to resist Isidoro; she had lived an experience out of parental control with people whose morality was not very good; her honesty together with that one of her mother was questioned by people whose testimony was presumed to be regarded as deeply reliable by judges (the examined neighbour was a police constable). On the basis of the solutions of trials dealt with by the previous *Supremo Tribunale di Giustizia* and the *Tribunale di Prima Istanza*, it might be deduced the defendant was not convicted. Surprisingly, he was. On 26 July 1834 Isidoro was sentenced to five years of confinement in the southern province of Siena. The penalty was not the one suggested by the well-known *pubblico ministero* Francesco Forti, which was seven years of banishment, but it was a harsh penalty in comparison with those imposed previously.¹³⁵

Why did the judges convict Isidoro? The answer to this question probably does not lie in this individual case, but instead needs to be deduced from looking more generally at the trials addressed by the *Ruota Criminale*. Between 1814 and 1838 this court dealt with eleven cases of sexually abused young girls, cases that occurred in Florence and surrounding neighbourhoods, ten of which ended in conviction.¹³⁶ It seems that the general trend was to punish people accused of having sexually assaulted girls who had yet to reach the age of puberty despite the fact sometimes there were elements that so far had turned the trial in favour of the defendant. In a sentence pronounced on 13 May 1830 judges wrote the fact Fortunata, a girl aged nine, was inconsistent in her depositions did not play in favour of the defendant Giuseppe, accused of having sexually assaulted her, because her incoherence was probably due to her *tenera età*, young age. In addition, according to the law, no doubts should be

¹³⁵ Francesco Forti (Pescia, 1806 – Firenze, 1838) was a jurist who decided to see how the law was applied in courts. This is why he accepted the office of *Pubblico Ministero*, the person who suggested conclusions to the judges, in the *Ruota Criminale*. His major work was *Libri Due delle Istituzioni civili accommodate all'uso del Foro* published in 1840 after his death. See F. COLAO, Francesco Forti, un civilista “pubblico ministero” nella Toscana del primo Ottocento. In: S. PAGLIANTINI, E. QUADRI, D. SINESIO, ed. *Scritti in onore di Marco Comporti*. Vol. I. Milano: Giuffré, 2008, pp. 799-823.

¹³⁶ ASF, RC: 799, Specchietto della città di Firenze e sue adiacenze (1814-1838).

instilled about the violence and her consent because in front of a young girl there was always *violenza morale*, what today is defined as ‘psychological violence’.¹³⁷

With reference to medical reports, they were still very ambiguous. For instance, in 1827 doctors asserted about Teresa, aged eleven, that she was not totally deflowered, the injuries she had might have been produced by the introduction of a solid body that might have been a penis and her discharges ‘might have been’ a consequence of venereal disease.¹³⁸ Therefore, as in the previous decades, doctors did not take a clear stand. Nevertheless, while in the cases dealt with by the *Supremo Tribunale di Giustizia* these ambiguous reports were manipulated in order to leave the trial open or interrupted, judges of the *Ruota Criminale* used them to arrive at the conviction. This different behaviour was sometimes very clear. In 1815 Luisa, aged eight, accused Paolo of having sexually assaulted her. The first medical report bore testimony to the fact that the girl was no longer a virgin, and that she was suffering from venereal discharges. Later, a second medical report certified that she was not deflowered and that she did not have discharges. Judges in the sentence recorded that this second visit was not very crucial because it was made later and the girl might have been cured. Paolo was convicted, and sentenced to three years of banishment from Florence.¹³⁹ This case is reminiscent of Maria’s story described in the first chapter, but the end was totally different. In 1790 the fact Maria was found with her hymen intact in a second medical visit led judges to totally exclude the rape. Obviously, the defloration or not was taken into account also by judges of the *Ruota Criminale* in order to define the charge, rape or attempted rape.

In cases addressed by the *Supremo Tribunale di Giustizia* and the *Tribunale di Prima Istanza*, violence was always present; investigations were focused at looking for signs of it, but violence had never been mentioned: the assault had never been called ‘violence’. During Maria’s trial, officers of the

¹³⁷ ASF, RC: 1767 (cc. 151-153, verdict n. 55).

¹³⁸ ASF, RC: 1767 (cc. 69-71, verdict n. 23).

¹³⁹ ASF, RC: 10 (trial n. 13).

law and witnesses repeatedly referred to what the girl had suffered as 'violence'. What determined this change in language? Probably, it stemmed from what the *Codice leopoldino* had established in 1786, namely that any sexual contact with a young girl had to be regarded as violent rapes regardless of whether there had been actual violence. This had become a principle that was shared by both people and public officials. What defined sexual intercourse as a kind of violence was the age of girls, their childhood. Indeed, for the first time in 1828 the crime was defined in a sentence 'rape of a virgin of childish age' and not 'rape of a virgin who had not yet reached puberty'.¹⁴⁰

What determined this new sensitivity? Probably, it was shaped above all by the cultural context dominated, during the Restoration, by the activity of the *Antologia*, a periodical founded in 1821 by the businessman Giovan Pietro Vieusseux and the intellectual Gino Capponi. The *Antologia* published the most popular essays written in Europe about several topics: economics, politics, literature, and pedagogy. Contributions came from writers such as Giacomo Leopardi and Pietro Giordani and local landowners like Cosimo Ridolfi. To some extent, the *Antologia* allowed the formation of the Tuscan political group later called moderato.¹⁴¹ The periodical paid a lot of attention to childhood and education.¹⁴² It was no coincidence that, in the same period, following the example of the English infants schools, public institutions aimed at teaching writing and reading to children were opened in several Tuscan localities, such as Pisa, Livorno, Siena and Florence.¹⁴³ The importance given to upbringing was confirmed by the fact that, after the abolition of the *Antologia*, one of the contributors, Raffaello Lambruschini, launched another periodical totally focused on education, *Guida dell'educatore*. It is not unbelievable that this attention to childhood affected lawyers and judges who frequented the same circles as the intellectuals of the *Antologia*.¹⁴⁴ Indeed, the *pubblico ministero* Francesco Forti who suggested a harsh penalty in 1834

¹⁴⁰ ASF, RC: 1765 (cc. 327-332, verdict n. 113).

¹⁴¹ COPPINI, *Il Granducato di Toscana*, pp. 223-246.

¹⁴² A. GAUDIO, *Educazione e scuola nella Toscana dell'Ottocento. Dalla Restaurazione alla caduta della destra*. Brescia: La scuola, 2001, pp. 122-123.

¹⁴³ CECCUTI, *Dalla Restaurazione*, p. 40.

¹⁴⁴ F. COLAO, *Avvocati del Risorgimento nella Toscana della Restaurazione*. Bologna: Il Mulino, 2006.

against Isidoro wrote sporadically in the pages of the periodical and on one occasion he reviewed a work about education, *L'education progressive by Madame Necker*.¹⁴⁵ Particularly sensitive to vulnerability, Forti, as stressed by Floriana Colao, was one of the few lawyers who refused to regard pregnancy as a proof of the consent expressed by women that had been raped.¹⁴⁶

Nevertheless, this new sensitivity should not be overestimated: the *Ruota criminale* dealt with only eleven trials from 1814 to 1838 and in the majority of the cases convictions were for 'attempted rape' and not for 'violent rape'. In addition, examination of the subsequent activity of the *Tribunale collegiale di Prima Istanza* will demonstrate how the new sensitivity shown by judges of the *Ruota criminale* was no more than a parenthesis.

Judges as 'Don Abbondio' (1838–1853)

On 26 July 1836, while Barbara was working in her husband's small shop in via Dell'Agnolo in Florence, the decorator Luigi was upstairs painting the walls of her house. At a certain point the woman was made suspicious by the silence from above and she decided to go upstairs, but when she entered the house, she had a shocking surprise. She found Luigi in the bed with her little daughter Assunta. She scolded the man for providing an innocent child with *malizia* and she chased him away. Barbara reported the story to the police of Santa Croce and the latter to the court. Although Assunta lost her virginity according to the medical report, Luigi was held guilty of *mollizie* because doctors decided that actual penetration by the penis had not taken place.¹⁴⁷

On 13 March 1837, Clorinda, a girl aged six, was gathering olives in a field close to Florence together with Angiolo, a farm labourer aged twenty who worked for her father. Suddenly, the man put his hands under the girl's clothes. Later Clorinda's parents found her crying and, after finding out what had

¹⁴⁵ GAUDIO, *Educazione e scuola*, p. 126.

¹⁴⁶ COLAO, Francesco Forti, un civilista, p. 818.

¹⁴⁷ ASF, RC: 1774 (trial n. 1)

befallen her, they charged Angiolo. Although the girl was found to be no longer a virgin, the man was charged with *mollizie* because there had been no actual sexual intercourse.¹⁴⁸

These were among the last cases of sexual assault on children to be dealt with by the *Ruota Criminale*. The fact they were classified as a less serious crime than rape, namely *mollizie*, is a clear sign that the strict line hitherto adopted by the court towards those accused of sexual violence against children should not be over-estimated. Sentences against Luigi and Angiolo prefigured a trend that the *Ruota Criminale*'s successor, the *Tribunale Collegiale di Prima Istanza*, would continue until unification. Probably, not by a coincidence, this change occurred after the abolition of the *Antologia* and the distancing of the Tuscan government from the *moderati* who had contributed a lot to the periodical.¹⁴⁹

The *Tribunale Collegiale di Prima Istanza* was established with the Criminal Reform promulgated in 1838, and it dealt with crimes that occurred in Florence and surrounding neighbourhoods and in the Regio Commissariato di Volterra.¹⁵⁰ Between 1832 and 1846, Leopoldo II promoted a set of actions that aimed at demonstrating both his benign nature and the efficiency of his rule. Besides reform of the justice system, economic measures were effected including the construction of the Florence-Livorno railway, extensive land reclamation in the Maremma, the expansion of Livorno's harbour, and the fostering of financial institutions. According to Romano Paolo Coppini, Leopoldo II strove to shape a kind of 'paradoxical indirect democracy': despite the fact local authorities were appointed by the government and there was no constitution, the prince tried to show that he understood the people's needs and could offer them solutions.¹⁵¹ This paternalistic behaviour led Ernesto Sestan to define Leopoldo II as 'the Don Abbondio of kingship'.¹⁵² Don Abbondio is the

¹⁴⁸ ASF, RC: 643 (trial n. 87)

¹⁴⁹ See G. GOZZINI, *Il segreto dell'elemosina. Poveri e carità legale a Firenze, 1800-1870*. Firenze: Olschki, 1993, pp. 110-111.

¹⁵⁰ A. ADEMOLLO, *Il giudizio criminale in Toscana secondo la riforma leopoldina del MDCCCXXXVIII*. Firenze: Tipografia di Sansone Coen, 1840.

¹⁵¹ FASANO GUARINI, PETRALIA, PEZZINO, ed. *Storia della Toscana*, p. 27.

¹⁵² E. SESTAN, *La Firenze di Vieusseux e di Capponi*. Firenze: Olschki, 1986, p. 139.

cowardly and hypocritical priest in Alessandro Manzoni's famous novel, the *Betrothed*, first published in 1827.

Looking at all the sentences the *Tribunale Collegiale di Prima Istanza* imposed on people accused of having sexually assaulted little girls, the impression is that the judges also behaved as Don Abbondio and failed to take a clear stand. From 1839 to 1849, when the *Codice Leopoldino* was still in force, the court dealt with eighteen cases of assaulted girls. Only two cases were classified as 'rape'; the other sixteen stories were labelled as *mollizie*. Penalties were extremely light: days or months of imprisonment. Five defendants were totally acquitted.¹⁵³

Before dealing in detail with these sentences, it is necessary to note the paucity of trials. During a ten year span, only five cases came to court in Florence and two in Volterra, while the others were single isolated events in small villages.¹⁵⁴ Should we assume that these cases were the only incidents of sexual violence that occurred in Florence and its surroundings between 1839 and 1849? Obviously, we should not: they merely represent the cases that were reported to the judicial authorities. It seems likely that the vast majority of cases never reached court. For example, Giovanni Gozzini, who studied the life of the refuge *Pia casa del lavoro* in Florence, brought to light stories of sexual violence between employees and inmates that took place in the middle of the nineteenth century and never reached the penal court.¹⁵⁵ It is self-evident that both in the countryside and in the town, there was a tendency to privilege private settlements or simply to conceal disturbing details that carried with them shame, and which disrupted the life of the community.

All these cases involved people from the lowest classes, generally farm labourers or craftsmen. Unfortunately, papers related to these trials have been lost and only the sentences have been preserved. Nevertheless, the latter reveal

¹⁵³ ASF, Tribunale Collegiale di Prima Istanza (TCPI): 2388-2425, registro protocollo per il turno decidente criminale (1838-1849). Unfortunately, documents referring to the period 1850-1855 had been lost.

¹⁵⁴ Lastra a Signa, Sesto, Pontassieve, Dicomano, Rufina, Reggello, Montevarchi, Pesciola

¹⁵⁵ GOZZINI, *Il segreto dell'elemosina*, p. 74.

two important points: first, nearly all defendants were not charged with ‘rape’, but with the less serious crime of *mollizie*; second, penalties were very mild. The *Tribunale Collegiale di Prima Istanza* applied the *Codice leopoldino* as had the *Supremo Tribunale di Giustizia* at the beginning of the nineteenth century and the *Ruota criminale* during the Restoration, but the outcomes of the three courts were totally different showing how the same law could be applied in various ways. Why did judges start to label sexual assault towards children as mere *mollizie* and to punish defendants softly? At the middle of the nineteenth century this way of looking at rapes of young girls seems to be the norm in the French courts, as has been shown by Georges Vigarello, who pointed out: ‘the court agreed to call an “affront” what was really assault or rape, using a juridical compromise to maintain the old tradition of clemency; the penalty was limited, but the case was pursued, the judgment pronounced, and the accused sentenced.’¹⁵⁶ Taking into account trials addressed by the *Supremo Tribunale di Giustizia*, where nearly all defendants charged with rape were acquitted, and sentences pronounced by the *Ruota Criminale*, which conversely condemned alleged rapists, the attitude of the *Tribunale Collegiale di Prima Istanza* appeared to be a kind of ‘compromise’.

Nevertheless, these sentences in the middle of the century suggested something more. By labelling sexual assaults against children as *mollizie*, judges made clear the old-fashioned idea that young girls could not really be raped. As the historian Sarah Toulalan has shown, throughout Western Europe in the early-modern age there was the idea shared by doctors and judges in courts that in pre-pubescent bodies the vagina was too narrow and dry to allow penetration.¹⁵⁷ This idea seems still to have been widespread in the nineteenth

¹⁵⁶ VIGARELLO, *A history of rape*, p. 158.

¹⁵⁷ ‘The stages of life that came before menarche and after menopause were thus noted by all authors as characterized by barrenness [...] In both young pre-pubescent and old post-menopausal female bodies the genitals were understood to be unsuitable for the act of sexual intercourse for the same reason: in both bodies the vagina, or ‘neck of the womb’, was understood to be too narrow or ‘streight’ and dry to allow penetration [...] This understanding was not only theorized in medical and midwifery texts, but demonstrated in practice in trials for the rape or sexual assault of pre-pubescent girls where successful prosecutions depended upon evidence of physical injuries to the genitals for proof of forcible penetration or of attempted penetration. Some of those who gave medical evidence at such trials testified that, although there had clearly been sexual assault upon a child, that not constituted rape because it was not possible to penetrate a young child who had not yet reached sexual maturity.’ S.

century. Also Louise Jackson, with reference to Victorian England, has stressed that doctors preferred the charge of ‘indecent or common assault’ instead of ‘rape’.¹⁵⁸ A consequence of the idea that children could not be raped was the belief shared by doctors and judges that, if there was actual sexual intercourse, the child had to show lasting signs of the injury including ‘unnatural’ dilatation of the vagina: this explains why during a trial other signs, besides the torn hymen, were looked for to prove the rape. This was also true for the doctors of the *Supremo Tribunale di Giustizia*, which sometimes, as I have already stressed in the first chapter, paid attention to elements like the ‘fraenum’ or they wrote ‘she had been deflowered even if the penis had not penetrated totally because of the tender age.’¹⁵⁹ Probably, this notion of children’s bodies led the judge Giuliano Tosi, when commenting on the *Codice leopoldino* at the end of the eighteenth century, to state clearly that rapes of children were rarely committed and generally just attempted.¹⁶⁰ In the trials addressed by the *Ruota Criminale*, the idea that young girls could not really be penetrated also emerged. In a case that occurred in 1833 doctors stated that the hymen of a little girl had been torn because of the introduction of a ‘small’ penis.¹⁶¹

Basically, the fact that it was believed that girls’ bodies were incapable of penetrative sex made ‘rape of children’ unimaginable; in other words, it did not exist. Bodies and penetration were central.

The *Tribunale Collegiale di Prima Istanza* made the idea of the non-existence of child rape clear by labelling sexual assaults of young girls as *mollizie*. In order to have an additional proof of this thinking, it is sufficient to look at some cases involving girls slightly older than twelve: their assailants

TOULALAN, ‘Age to great, or to little, doeth let conception’. Bodies, sex and the life cycle, 1500-1750. In: S. TOULALAN, K. FISHER, ed. *The Routledge history of sex and the body: 1500 to the Present*. London: Routledge, 2013, pp. 286-291. See also S. TOULALAN, Child sexual abuse in late seventeenth and eighteenth century London: rape, sexual assault and the denial of agency. In: N. GOOSE, K. HONEYMAN, ed. *Children and childhood in Industrial England: Diversity and agency, 1650-1900*. Aldershot: Ashgate, 2012, pp. 23-43. S. TOULALAN, Child victims of rape and sexual assault. Compromised chastity, marginalized lives? In: S. CRAWSHAW, A. SPICER, ed. *The problem and place of the ‘margins’, 1400-1800*. Abingdon: Routledge, 2016, pp. 181-202.

¹⁵⁸ JACKSON, *Child sexual abuse*, p. 82

¹⁵⁹ For instance, ASF, STG: 374 (trial n. 243)

¹⁶⁰ ZULIANI, *La riforma penale di Pietro Leopoldo*, p. 523.

¹⁶¹ ASF, RC: 1769 (trial n. 42)

were no longer charged with *mollizie* but with ‘violent rape’.¹⁶² Only in two trials, rapists of girls under twelve were charged with ‘attempted rape’ instead of *mollizie*, but the defendants were minors.¹⁶³ Probably, the basic idea was that an adult man could not have sexual intercourse with a child. Yet in 1804 doctors, appointed to see a girl aged six who had denounced a friend of the family for having raped her, asserted that her hymen was torn, but ‘it was hard to imagine a child could have accommodated a penis of a man aged twenty-six.’¹⁶⁴

To sum up, trials that we have hitherto examined showed that on the one hand, female children were regarded as possessing bodies that objectively could not be penetrated easily; on the other hand, these bodies, although children’s, could belong to individuals with personalities whose childish innocence had been corrupted by sexual knowledge and *malizia*, which in turn transformed girls to a degree into immoral women capable of seducing men. For instance, in 1845, judges of the *Tribunale Collegiale di Prima Istanza* decided to lower the established penalty against Giovanni, aged 54, accused of having raped a girl who was ten years old because it could not be ruled out that the girl herself had wanted to have sex with him: this occurred despite the fact the *Codice leopoldino* regarded children under twelve as unable to express their consent and despite the fact that the code did not require proofs of physical violence to convict a man of rape.¹⁶⁵ Nevertheless, as I have already stressed, the latter were always sought. The reasons for this are clear: first, given the belief that children’s bodies were impenetrable, had sexual intercourse really occurred, the act would have surely left brutal and enduring physical traces; second, because it was widely held that not all girls were really innocent children. The dichotomy between the incorruptible body and the corruptible subjectivity of girls made it hard to prove in court that children had been raped; finally, it was harder to prove that a girl had been raped than that it was to prove the same violence against a woman.

¹⁶² For instance, ASF, TCPI: 2403 (trial n. 92), 2413 (trial n. 1), 2421 (trial n. 231).

¹⁶³ ASF, TCPI: 2413 (trial n. 1)

¹⁶⁴ ASF, STG: 675 (trial n. 239)

¹⁶⁵ ASF, TCPI: 2411 (trial n. 199)

Moreover, the outcomes of trials dealt with by the *Tribunale Collegiale di Prima Istanza* from 1839 to 1865 show that what was really disapproved in court was not the loss of virginity, but the loss of virginity through sexual intercourse with a man. Indeed, when the hymen was clearly torn because of the penetration of a penis, the crime was rape (subsequently *violenza carnale*). When the loss of virginity was produced by the introduction of fingers, the crime was *mollizie*, later *atti di libidine*.¹⁶⁶ When an object, such as a piece of wood, was put into contact with girls' genitalia causing the break of the hymen, the crime was the infliction of injury (*lesioni*).¹⁶⁷ This rude outline was necessary to understand that the crime was defined not by the consequences for what was done to the injured parties, but by the actions of the abuser: it was his body, as I have just stressed, and also his desires. For instance, in 1849 Costantino, a corporal aged 34, lifted up the skirt of an eleven year-old girl, who then started shouting. What is uncertain was whether his action was in fact sexually-motivated or simply a joke in bad taste, but this uncertainty led the judges to absolve him and not to take into account the *mollizie*.¹⁶⁸ Similarly, in 1862 the peasant Serafino accused of having assaulted a girl aged eleven was acquitted because there were no proofs about his sexual feelings.¹⁶⁹

The abusers, the men were always at the centre of proceedings. In courts judges punished not the consequences of men's actions, like causing the loss of virginity of girls, but their actions that defined the crime. In interpreting and defining the criminal act, judges asked whether the defendant had had sexual intercourse with the girl. Did he use only fingers? Did he resort to object? Was he driven by sexual desire? The consequences of the defendant's actions were a secondary issue. Laws against sexual violence appeared to be aimed at the control of male sexuality, at its regulation, rather than at the protection of children.

¹⁶⁶ For instance, in a trial the *Tribunale Collegiale di Prima Istanza* dealt with in 1862 Maria, a child aged four, had her hymen torn, but doctors established the cause was the introduction of fingers. The defendant was sentenced to prison because of *atti di libidine*. ASF, TCPI: 2479.

¹⁶⁷ For instance, in a trial the court dealt with in 1863 Pietro, a farm labourer in Borgo San Lorenzo, was convicted for injury because he made Carolina, a girl aged ten, lose her virginity through a piece of wood. ASF, TCPI: 2490.

¹⁶⁸ ASF, TCPI: 2422 (trial n. 233).

¹⁶⁹ ASF, TCPI: 2480 (trial n. 246).

To sum up, judges used to find ways of dismissing child rape on several grounds: impenetrability of children's bodies, the cunning of girls, and the absence of sexual desire shown by men. Margherita Pelaja, with reference to trials for rapes involving adult women, dealt with by the *Tribunale del Vicario* in Rome from 1848 to 1849 stressed investigations were totally focused on proving the loss or not of virginity.¹⁷⁰ The latter was a symbol of honour, for both women and their families, and also a symbol of the control adult male relatives had over women's reproduction. As was the case for girls in the *Tribunale collegiale di Prima Istanza* of Florence, virginity appeared to be a secondary issue: crimes were defined by men's actions and desires and what was really condemned was the girls' intimacy with men, and their knowledge of sex. Is it unthinkable that the less attention paid on virginity was justified by the still undeveloped reproductive capacity of girls under twelve? In other words, taking into account that girls under twelve could not get pregnant, is it possible to argue that their abuse was a less serious crime than the rape of adult women? And was it also for this reason that the rapes of children could be defined as simple *mollizie*?

‘This is how she expressed herself’:

Cesira, 1857

On 11 December 1857 three men went to the police of the Santissima Annunziata, in the city centre, to report they had just seen a woman together with a young girl and they suspected she was fostering child prostitution. Police constables went out to find this woman and, when they caught sight of her, she started running away intensifying their suspicions. Finally, they caught her in Piazza S. Egidio, very close to Santa Maria Nuova. Both the woman, whose name was Maria, and the girl, called Cesira, were conducted to the police station of Santa Croce where they were examined. Cesira ‘cried her heart out’ – the police constables wrote on the report – stating that Maria ‘used to bring her to several houses where [...] she made her let those present do

¹⁷⁰ M. PELAJA, *Scandali. Sessualità e violenza nella Roma dell'Ottocento*. Roma: Biblink, 2001, p. 143.

with her as they wished.’ In addition, she complained that her father had had sexual relations with her after her mother had died. Indeed, one month earlier, the girl tried to run away from her father, but she was found by constables and condemned to three days of ‘prison’ for ‘escape from parental house’ (*fuga dal tetto parentale*). Although Cesira was only eleven years old, she had agency of her own: she found herself in trouble both in her house and outside, and she looked for a way of escape. From the police station she was sent to the Pia Casa del Lavoro.¹⁷¹

While Cesira was sent to the charitable institution, Maria was imprisoned awaiting further investigations. Who was Maria? This woman, aged 42, came from Tredozio, a region close to the north-east confines of Tuscany, but she had been in Florence since her childhood. In 1857 she was a widow with a son. Police knew her well because she had been denounced many times: for begging, ‘irregular behaviour’, and ‘dishonest practice’. In her deposition she asserted she earned her living honestly working as an occasional servant. She knew Cesira because they were neighbours in via San Niccolò, on the left side of the Arno, and often they met each other begging in Piazza S. Annunziata or in Piazza delle Cipolle, on the right side of the Arno, where they were arrested. In order to justify herself, Maria used ‘male’ arguments, in other words she resorted to the same topics men accused of having sexually assaulted girls used to prove their innocence. Maria tried to depict Cesira as *maliziosa*:

You should know this girl doesn’t need my support to do dishonest things because she knows more than me, and according to her narrative her father has led her astray, both having indecent relations with her and bringing her to the house of another to give hand-jobs (as she called them in conversation with me) obtaining money from men who got close to her.

It is worth repeating Maria’s observation: ‘as she called them in conversation with me.’ We have already seen that, since girls’ language was rigorously examined by the authorities, they needed to describe sex with

¹⁷¹ ASF, TCPI: 3081.

inaccurate terms if they were to demonstrate their innocence. Maria was a woman accustomed to being in a police station and she was probably aware of officials' expectations. For this reason she stressed Cesira's way of speaking, implying that since the girl was knowledgeable about sex she was without doubt *maliziosa*.

Cesira's tale was totally different. First of all, it should be emphasised that in contrast with Maria's case (1834), the officials who transcribed Cesira's deposition stressed her ignorant language; they reported that Cesira used the words 'under' or *natura* for her genitals, and that she referred to the male genitals as 'thing', adding explicitly that 'this is how she expresses herself.' The fact both Maria and the officers of the law paid attention to the child's language is the proof of its importance: the language was strictly examined becoming essential material to determine the outcome of the trial. Second, Cesira recounted that Maria used to bring her 'into houses and doorways' especially in Piazza Felicita and in Piazza delle Cipolle, in the heart of the town, where she obliged her to prostitute herself to men. Cesira gave her earnings to Maria who sometimes paid for her food and sometimes left her some money to give to her father. The latter pretended not to be aware of her immoral conduct, but did in fact know and would hit her when she returned home without money. Last but not least, Cesira stated she met other young girls in the houses she frequented to prostitute herself, and she gave two names: Teresa, aged thirteen, and Corinna, who was fifteen years old. These two girls, currently in prison because of 'suspected indecent behaviour', were examined and they asserted that they did not know Maria and had never acted immorally; they only sometimes visited *signori*, some men, in the Palazzo Vecchio, the town hall of Florence, in order to receive monies as charity.

As Michela Turno points out, Florentine authorities and officers of the law in the first half of the nineteenth century were quite tolerant towards prostitutes. The first formal action aimed at partial regulation of prostitution was dated 1855 with the introduction of a public licence given to women over

eighteen.¹⁷² The inclusion in public registers of prostitutes was voluntary; after 1890 with the so-called Regolamento Cavour it could be ex-officio and the women permitted to work as prostitutes were to be over sixteen years of age. The fact that licence was given to women over eighteen, and, subsequently, to the over sixteens, left underage girls in the shadow. Historians find it very difficult to find primary sources about child prostitution, and there is no research totally focused on this topic for any period before the twentieth century.¹⁷³ Nevertheless, as Mary Gibson stressed with regards to the whole Italy in the nineteenth century, many traces suggested child prostitution was very widespread throughout the country.¹⁷⁴ This is true also for Florence. Michela Turno noted that indirect evidence of it emerges from the archives of the *Presidenza del Buon Governo*, police papers and documents for the admission into institutions for dangerous girls or into the Pia Casa del Lavoro, where Cesira was sent.¹⁷⁵ Indeed, Cesira's story was doubtless a proof of the reality of child prostitution. It is probably no coincidence that the alleged events took place around the streets of the San Giovanni district (via Strozzi and via Sassetti) and in that of Santo Spirito (especially Piazza Santa Felicità), areas where the majority of publicly-registered brothels were concentrated.¹⁷⁶

As Franco Cambi and Simonetta Ulivieri wrote in 1988 attitudes to childhood in the nineteenth century suffered from schizophrenia.¹⁷⁷ On the one hand, writers started to exalt in literature an ideal childhood characterized by serenity, play, obedience, innocence and 'an erotic vacuum'. On the other hand, a lot of children belonging to the lowest classes lived existences marked by poverty, hard-work and, as in the case of Cesira, sexual exploitation. This research is not about child prostitution, even though it could be regarded as a kind of sexual violence. Moreover, the *Camera di Consiglio*, the authority

¹⁷² M. TURNO, *Il malo esempio. Donne scostumate e prostituzione nella Firenze dell'Ottocento*. Firenze: Giunti, 2003.

¹⁷³ See A. BROWN, D. BARRETT, *Knowledge of evil. Child prostitution and child sexual abuse in twentieth century England*. Devon: Willan Publishing, 2002.

¹⁷⁴ M. GIBSON, *Prostitution and the state in Italy, 1860-1915*. London: Rutgers University Press, 1986, p. 109.

¹⁷⁵ TURNO, *Il malo esempio*, p. 127

¹⁷⁶ IBID, p. 97.

¹⁷⁷ F. CAMBI, S. ULIVIERI, *Storia dell'infanzia nell'età liberale*. Firenze: La Nuova Italia, 1988, p. 19.

appointed to formulate charges and command trials, decided to accuse Maria not of having fostered underage prostitution, but of ‘continuous assistance to *atti di libidini* against a girl under twelve’. This choice was justified by the harsher penalty established for the latter crime.

In this trial the penal code in force was not the *Codice Leopoldino*, but the so-called *Codice Penale Toscano*. Indeed, in 1847 the Grand Duke Leopoldo II established a commission to write a new penal code. The group was head by Francesco Mori, professor of criminal law in the University of Pisa. The well-known jurists Giovanni Carmignani and Francesco Carrara were absent from this project: the former because he died exactly in 1847 and the latter because he was citizen of the Ducato di Lucca entered into the Grand Duchy soon afterwards.¹⁷⁸ The new *Codice Penale Toscano* became law in 1853. Contrary to the other pre-unification codes affected by the French law, the Tuscan law was obviously influenced by the previous code, the *Codice Leopoldino*, but also by the penal code for the Grand Duchy of Baden.¹⁷⁹ Tuscan criminal lawyers borrowed from the latter entire sections and, above all, the division between ‘crimes’, included in the penal code, and ‘transgressions’, absorbed in a regulation for police. Nevertheless, the order of crimes was different from that followed by the German one. While the latter started with the offences against people, the Tuscan law went from the felonies against the government to those against the property.¹⁸⁰

If one looks in detail at the articles dealing with sexual violence, what changes did the new code introduce? What are the similarities to and the differences from the previous *Codice Leopoldino*? First of all, the phrase ‘violent rape’ was replaced by *violenza carnale* and the expression *atti impudici* by *atti di libidine*. Second, these crimes could be committed against both men and women even if it would be punished more harshly when the

¹⁷⁸ T. PADOVANI, La tradizione penalistica toscana nel Codice Zanardelli. In: S. VINCIGUERRA, ed. *Diritto penale dell'Ottocento. I codici preunitari e il codice Zanardelli*. Padova: Cedam, 1999, pp. 400-401.

¹⁷⁹ M. PASSANO, La storia esterna del codice penale toscano (1814-1859). In: LAMIONI, ed. *Istituzioni e società*, pp. 564-589.

¹⁸⁰ S. VINCIGUERRA, Fonti culturali ed eredità del codice penale toscano. In: *Scritti in memoria di Renato dell'Andro*, Bari: Carucci Editore, 1994, II, pp. 1005-1026.

injured party was male. Last but not least, adultery and bigamy were no longer deemed more serious than *violenza carnale*. Like the *Codice Leopoldino*, the *Codice Penale Toscano* safeguarded the crime of ‘simple rape’. In addition, violence was always taken for granted in sexual intercourse with children under twelve.¹⁸¹ This was true also in the other pre-unifications codes save the penal code for the Stati Estensi and the law in force in the Regno Lombardo-Veneto, in both of which the age under which sexual intercourse was always deemed to be violent was not twelve, but fourteen.

It is time to go back to Cesira’s story and see the outcome. Maria was accused of ‘repeated support for *atti di libidine* against a girl under twelve’. The ‘repetition’ was a legal concept developed by Italians in the Middle Ages, but absent in the *Code pénal de l’Empire Français* and consequently in the other pre-unification codes. Conversely, it was present in the penal code for the Grand Duchy of Baden and for this reason it entered again into the Italian purview through the *Codice penale Toscano*.¹⁸² The repetition together with the charge of *atti di libidine* would have made the penalty towards Maria harsher than an accusation of fostering prostitution: the Italian name for this crime was *lenocinio*. Nevertheless, on 1 March 1858, judges of the *Tribunale Collegiale di Prima Istanza* pronounced the sentence: Maria was condemned to 36 months of prison because she committed the crime of *lenocinio*. The charge of support to *atti di libidine* was not accepted because neither was it possible to identify people who committed these acts nor could it be ascertained that these men were aware of Cesira’s age. Documents of the whole trial showed that not many efforts were made to identify the girl’s customers, usually called *signori*. The majority of characters in this story were women: men were totally absent, as Michela Turno has already underlined in her more general research about prostitution in Florence in the nineteenth century.¹⁸³

I was able to discover Cesira’s case because it was first labelled as a trial for *atti di libidine* (I did not see trials for *lenocinio*) and I have chosen to

¹⁸¹ G. PUCCIONI, *Il Codice penale toscano illustrato sulla scorta delle fonti e della giurisprudenza*. Pistoia: Tipografica Cino, 1855- 1857, I-IV.

¹⁸² VINCIGUERRA, *Fonti culturali*, p. 1012.

¹⁸³ TURNO, *Il malo esempio*, p. 145.

examine it in detail because it was one of the bloodcurdling stories I encountered and I was struck by the leniency shown by the officers of the law towards the people she accused. It is self-evident that investigations were not meticulous. In her deposition Cesira spoke about an incest relationship with her father, but no penal proceeding was started against the man. No effort was made to identify the *signori*. Unlike Maria, the girl involved in the first story recounted in this chapter, Cesira was not inconsistent in her narrative, and she described in details her condition as an ‘object’: an object to an adult woman who obliged her to prostitute herself; an object for the *signori* that ‘did with her what they wished’; and, last but not least, an object for a father who sexually used her body. Nevertheless, the only person to be condemned was the adult woman and the charge was not the most serious. It appeared that the approach towards sexual violence against young girls shown by the judges of the *Tribunale Collegiale di Prima Istanza* was far from being severe. Was this behaviour exceptional and limited to Cesira’s story?

To answer this question, it is useful to consider all the trials the *Tribunale Collegiale di Prima Istanza* dealt with from 1856 to 1865. First, it should be underlined that over nine years the court addressed 42 cases of sexually assaulted girls. Taking into account that from 1838 to 1849, during a period of eleven years, there had been only seventeen, the increase in number is self-evident. Nevertheless, this increase was essentially confined to the city: nearly half of all cases occurred in Florence. The fact that urban people started in the middle of the century to resort to justice more frequently has been detected also by Georges Vigarello in France.¹⁸⁴ Second, 35 out of 42 cases were labelled as trials for *atti di libidine* and seven as trials for ‘attempt of’ *violenza carnale*: no one was charged with *violenza carnale*. This means that rape of children under twelve was still considered more-or-less unthinkable. Last but not least, we should take into account sentences. Little more than the half of trials (25 cases of 42, namely the 59%) ended with a conviction and penalties were not strict: from days or months of prison to sporadically three or four years of detention. Judges never resorted to the harshest penalty, namely

¹⁸⁴ VIGARELLO, *A history of rape*, p. 152.

eight years of prison for *violenza carnale*. To conclude, the behaviour shown by the officers of the law in the story involving Cesira does not appear exceptional: child rape was still difficult to prove and judges' were still indulgent when sentencing.

Chapter III

The acknowledgment of female child rape:

Between changes and old prejudices

On 27 April 1859 the Grand Duke left Tuscany; a few months later the region was annexed to Piedmont and, finally, in March 1861 the new Kingdom of Italy was proclaimed. If in 1848 the ambition to the unification was shared by a few, ten years later this feeling was probably shared by the majority of Tuscans.¹⁸⁵ The local main protagonists of this ‘pacific revolution’ were the so-called *consorti* or *moderati*, leading men within finance and powerful land owners.¹⁸⁶ Among these, a prominent role was played by Bettino Ricasoli who, after Cavour’s death, became the *Presidente del Consiglio*, namely the prime minister, of the Kingdom.¹⁸⁷ Florence was also the capital of the state from 1865 to 1870. Simonetta Soldani underlines that this experience should not be regarded as a mere parenthesis of the history of Florence because the urban fabric of the city was totally transformed in these years: the city walls were demolished and new quarters were built: ‘it was like the collapse of an invisible dyke doubtless more powerful than the Arno’s floods.’¹⁸⁸ Obviously, the construction of new buildings was justified by population growth. During the period of unification, Florence had about 120,000 inhabitants; by 1885 this figure had grown to 169,000. During the course of the nineteenth century the

¹⁸⁵ S. ROGARI, Dall’unificazione alla crisi di fine secolo. In: LOTTI, ed. *Storia della civiltà toscana*, p. 73.

¹⁸⁶ G. SPADOLINI, *Autunno del Risorgimento. Miti e contraddizioni dell’Unità*. 2nd ed. Firenze: Le Monnier, 1987.

¹⁸⁷ A. SILVESTRINI, *I moderati toscani e la classe dirigente italiana (1859-1876)*. Firenze: Olschki, 1965. G. SPADOLINI, ed. *Ricasoli e il suo tempo. Atti del convegno internazionale di studi ricasoliani (Firenze, 26-28 settembre 1980)*. Firenze: Olschki, 1981.

¹⁸⁸ S. SOLDANI, I moderati toscani dalla Restaurazione alla caduta della Destra storica. In: IRPET, *Lezioni di storia toscana*. Firenze: Le Monnier, 1981. pp. 83-84. See also U. PESCI, *Firenze capitale, (1865-1870): dagli appunti di un ex cronista*. Firenze: Giunti, 1988. First published in 1904. P. REDI, Espansione e speculazione edilizia in Firenze capitale. In: G. PANSINI, ed. *La Toscana nell’Italia unita: aspetti e momenti di storia toscana, 1861-1945*, Firenze: Unione regionale delle province toscane, 1962, pp. 451-471. S. CAMERANI, *Cronache di Firenze capitale*. Firenze: Olschki, 1971. G. SPADOLINI, *Firenze capitale: gli anni di Ricasoli*. Firenze: Cassa di risparmio di Firenze, 1979. R. P. COPPINI, *L’opera politica di Cambray-Digny, sindaco di Firenze capitale e ministro delle finanze*. Roma: Storia e letteratura, 1975.

population had doubled. Moreover, the population was younger: the 1810 census reveals an aging population, but by the liberal era, the average age had fallen considerably.¹⁸⁹ The Florence that I address in this chapter is, therefore, a more significant urban centre, with a younger population, and pivotal to a newly formed nation state.

In this chapter I will describe the activity of the *Corte di Assise* through the examination in details of three trials and sentences. The *Corte di Assise* was the new court of the Italian state and it was established in 1866 with the task of dealing with serious crimes. The arrival of a case to this court followed a complex path: first, the investigating judge did research; second, the *Camera di Consiglio*, made up of three judges, decided whether the facts deserved a penal proceedings; third, the so-called *Sezione d'Accusa* of the *Corte d'appello* formulated the charge; finally, the case reached the *Corte di Assise*.¹⁹⁰ It should be stressed that, while the *Codice di procedura penale*, the code of criminal procedure, had been the same throughout the whole of the newly-established Kingdom of Italy since 1866, things went differently with regard to the penal codes.¹⁹¹ After unification, the Savoy penal code was extended to the whole country with the sole exception of Tuscany where the *Codice penale toscano*, enacted in 1853, stayed in force until 1890, the year when the *Codice Zanardelli* was introduced. Why was the Tuscan law preserved? The explicit common explanation resorted to the absence in the latter of the death penalty, which was present in the Savoyard code. Nevertheless, as John Davis underlined, behind the defence of the local penal code there was the strongly-held regional belief that the *Codice penale toscano* was clearly superior to the Piedmontese code.¹⁹² Therefore, while the stories I am going to focus on were all addressed by the *Corte di Assise*, the first case was resolved under the *Codice penale toscano*, while the second and third were resolved by use of the *Codice Zanardelli*.

¹⁸⁹ C. CORSINI, Città e campagna tra due censimenti. In: FASANO GUARINI, PETRALIA, PEZZINO, ed. *Storia della Toscana*, pp. 143-169. S. SOLDANI, La Toscana nell'Italia unita. In: FASANO GUARINI, PETRALIA, PEZZINO, ed. *Storia della Toscana*, pp. 37-57.

¹⁹⁰ L. LUCCHINI, Corte d'Assise. In: *Digesto Italiano*, 1899-1903, vol. VIII, parte IV, pp. 22-72.

¹⁹¹ *Codice di procedura penale del Regno d'Italia*: colla relazione del Ministro Guardasigilli fatta a S. M. In udienza del 26 novembre 1895. Torino: Cerutti e Derossi, 1866.

¹⁹² J. A. DAVIS, *Legge e ordine. Autorità e conflitti nell'Italia dell'800*. Milano: Franco Angeli, 1988, p. 272.

‘This girl looks very cunning’:

Isolina and Giulio, 1884

I have a daughter whose name is Isolina whom I sent to a school for a while to become a seamstress: she usually came back home late making excuses every time and I finally came to the decision to interrupt her schooling because I realised she had been led astray. A short time ago, I had to go to Livorno and when I came back to Florence, on the evening of the 27 September, Giuseppe told me that the lover of his daughter, called Giulio, had seduced my child and that he met Isolina every night in the garden of Santo Spirito where Giuseppe’s daughter saw them together. You can imagine how I felt and, when I consulted my daughter, she finally admitted that for a while she had been meeting to chat with Giulio in the above-mentioned garden and she added that one evening, more or less one month ago, this boy led her to a place in the Viale dei Colli where he ravished her, and she stated that only once had they had congress. The day after I brought my daughter to the midwife Amalia and after having examined her she told me the girl had been really raped. The same midwife added that more than once she saw the boy following my child. I want to make a legal claim against Giulio.¹⁹³

The person speaking was Teresa, a 43 year-old housewife, living in via Santa Maria in Florence with her husband and their eleven year-old daughter, Isolina. As she recounted in her deposition, made on 28 September 1884 at the police station of Santo Spirito, Teresa spent some days in Livorno, the city where she was born, leaving her daughter in Florence. After her return, a man named Giuseppe, staying in the same building as Teresa, informed her that Isolina had been ‘seduced’ by Giulio, a boy aged seventeen, living in the neighbourhood, in via Romana. This Giulio was a *stipettaio*, a cabinet maker.¹⁹⁴ As in the previous decades, in many cases addressed by the *Corte*

¹⁹³ ASF, Tribunale di Firenze. Atti in materia penale. Processi d’Assise (PA), 1885, busta (b.). 1172, fascicolo (f.) 471.

¹⁹⁴ The verb ‘seduce’ was not neutral and used by chance. It should be remembered that in Tuscany it was still in force the crime of *stupro semplice* (sexual intercourse with a virgin, allegedly seduced by a marriage proposal, not followed by marriage) that had been abolished in

d'Assise the rapist was not a stranger; frequently he was a neighbour, like Giulio, or someone who lived in the same house or worked together with girls' parents.¹⁹⁵ This familiarity between men accused of sexual violence and the girls they allegedly assaulted or abused, which was the norm in Florence and its surrounding countryside, has been noted in other historical and social contexts.¹⁹⁶ Nevertheless, while a girl's neighbourhood can be seen as the most probable source of possible assailants, the neighbourhood also exercised a very strong form of social protection and surveillance. It is significant that Teresa was informed by Giovanni, a man who lived in the upper floor of her house. In another case, which occurred in 1872, the rape of a seven year-old girl came to light thanks to a nosey flatmate, Caterina. Together with her husband, the latter rented a room in the same flat as a woman and her daughter Cesira. Every morning – Caterina recounted – she passed in front of the room shared by the two, to reach the shared kitchen. One day she 'noticed the place (in the bed) where the daughter slept was not rumpled as usual.' She realised the girl had not slept at home and she went to her grandparents to inform them about this absence. Later, Cesira's grandparents examined the girl and discovered she spent the night with a man who had sexual relations with her with the agreement of her mother.¹⁹⁷ Here we have an example of the same 'collective responsibility toward children' that Louise Jackson detected in Victorian England.¹⁹⁸ To sum up, as Domenico Rizzo underlines with regards to Rome, the same features of the social context that made children accessible, fostering abuse, created ways of collective social pressure.¹⁹⁹ Moreover, the neighbourhood was usually the main source of witnesses in trials. As has already been shown since the first case I have examined occurring in 1790,

the other regions of the peninsula since the end of the eighteenth century. As Giovanni Cazzetta wrote, 'Tuscany was the last one to be educated'. CAZZETTA, *Praesumitur seducta*, p. 339.

¹⁹⁵ See Chart 7, p. 195.

¹⁹⁶ VIGARELLO, *A history of rape*. A. M. SOHN, L'oltraggio al pudore sulla persona delle bambine e la sessualità nella vita quotidiana. In: A. CORBIN, ed. *La violenza sessuale nella storia*. Bari: Laterza, 1992, pp. 63-104. First published as *Violences sexuelles*. Paris: Editions Imago, 1989. D. RIZZO, *Gli spazi della morale. Buon costume e ordine delle famiglie in Italia in età liberale*. Roma: Biblink editori, 2004. M. R. PELIZZARI, Il corpo nei racconti di stupro. Maschile/femminile in alcuni processi del primo Novecento. In: M. R. PELIZZARI, ed. *Il corpo e il suo doppio*. Storia e cultura, Salerno: Rubbettino, 2010, pp. 101-118

¹⁹⁷ ASF, PA: 1873, b. 540, f. 1427.

¹⁹⁸ JACKSON, *Child sexual abuse*, p. 35

¹⁹⁹ RIZZO, *Gli spazi della morale*, pp. 75-76.

people around the girl who had been sexually abused and the defendants were usually questioned about their morality and conduct. To be more precise, in the majority of trials it was girl's morality that was put at the centre of investigations. Therefore, a girl's credibility depended heavily on the reputation she enjoyed. As Margherita Pelaja wrote, the honour of women (and girls) consisted of many elements: the standing and reputation of the family, the extent and solidity of the network into which the family was inserted, and the respect of the gender role.²⁰⁰ Maria Rosaria Pellizzari, who has studied trials for rape in Naples at the beginning of the twentieth century, revealed the degree to which women developed mutual support, and operated as a form of coalition to punish those responsible for having abused one of their daughters.²⁰¹ Something similar occurred in a case brought before Florence's *Corte d'Assise* in 1896: when a certain Elvira discovered that her six year-old daughter Ada had been sexually assaulted, she summoned some friends to examine the girl's genitals; these friends subsequently testified at the trial.²⁰²

How does Isolina's story fit into this pattern of behaviour? Could Teresa count on a supportive network of friends and neighbours? And what kind of reputation did Isolina – and her mother – enjoy?

Giuseppe, a farm labourer, aged 24 and living in via Santa Maria where Isolina was also resident, recounted: 'I know Giulio and I also know this girl, whom I very often found in the garden of Santo Spirito speaking with him and others. This girl looks very cunning [*sveltina*] and I saw her with soldiers too.' Iola, a young woman aged 19, and another resident of via Santa Maria, labelled Isolina as a 'little gossip' and a 'coquette', in other words a girl who frequently tried to attract the attention of men. Amalia, a midwife who lived on via del Campuccio, which ran parallel to via Santa Maria, told of how Isolina's mother visited her with the girl on 28 September and how Isolina had at first refused to be examined. Then, Amalia could see her body and she verified the girl had been ravished. The midwife added that she had questioned Isolina and that the

²⁰⁰ PELAJA, *Scandali*, p. 66

²⁰¹ PELIZZARI, *Il corpo nei racconti*, p. 117.

²⁰² ASF, PA: 1896, b. 1606, I, f. 18.

girl ‘with a great insolence’ had said to her that she had had sexual intercourse with Giulio. Moreover, Amalia stated she knew about this relationship from ‘rumours’, even though she had never seen Giulio and Isolina together. It is clear that within her immediate neighbourhood, Isolina did not have a good reputation. In addition, it is self-evident that neighbours knew of the relationship between the girl and Giulio: the affair was public. This notoriety could explain why Isolina’s mother decided to charge the boy with carnal violence. She was probably trying to repair her daughter’s and her family’s honour by appealing to justice.

What was the outcome of this trial? There are many elements that might suggest that it would not have been resolved in Isolina’s favour: she already had a bad reputation in the quarter in which she lived; her deposition had suggested that she had consented; and last but not least, the medical report stated that she was still a virgin. Yet despite this, the boy was convicted of *violenza carnale* against a girl under twelve and he was condemned to two years of prison. The penalty was partly reduced because Giulio was below the age of majority. As in other cases, to understand the sentence imposed on Giulio, it is useful to put it in a wider context, in this case the outcomes of all the trials for *violenza carnale* and *atti di libidine* the *Corte d’Assise* dealt with from 1866 to 1890, the period when the *Codice penale Toscano* was still in force. The court addressed 24 cases of men accused of having sexually assaulted girls and all these men were convicted: penalties ranged from a minimum of 18 months to a maximum of seven years of prison.²⁰³ In addition, unlike the previous *Tribunale Collegiale di Prima Istanza*, the *Corte d’Assise* condemned these men for *violenza carnale* and not for *atti di libidine*.²⁰⁴ This explains why penalties became harsher: the crime of *violenza carnale* was more serious of that of *atti di libidine*. It is self-evident that judges became more intolerant toward alleged rapists of girls.

²⁰³ ASF, Corte d’assise di Firenze: registri generali, 1-15 (1866-1890). When the *registri generali* were missing some data, I looked for the latter in the collection of sentences: ASF, Corte d’Assise di Firenze 1866-1950, Sentenze, verbali e ricorsi: 1, 2, 23, 24, 29, 31.

²⁰⁴ See Chart 4, p. 193.

What determined this change? Do the outcomes of these trials unveil new or old ideas about childhood shared by judges? In other words, the law in Tuscany since the time of the *Codice Leopoldino* did not need actual violence in case of rape of children under twelve because they were regarded as unable to manifest their consent: their innocence was given for granted. Nevertheless, in practice in many earlier cases girls who displayed any degree of sexual knowledge – the so-called *maliziose* – were seen as accomplices to the defendants. Did this widespread opinion disappear from court suddenly? It seems improbable. In 1896 Pio Viazzi, a lawyer and expert in jurisprudence, as well as a follower of Cesare Lombroso and Enrico Morselli, and later in life a parliamentary deputy, reflected in his work *Sui reati sessuali* on a supposed case very similar to that one involving Isolina. He argued that in the case of a boy aged thirteen or fourteen who was ‘convinced by the persuasive approach of a depraved girl aged eleven’ to have sex with her, it was probable that the judges would convict the boy of rape, even though he too was underage and probably corrupted by the girl. In such cases, ‘the only consolation for the young boy would be chew upon the old proverbial prophecy: *Femina est ruina tua*.’²⁰⁵

From the perspective of those who lived in and around via S. Maria, close to Santo Spirito, it was quite clear that it was Isolina who had determined Giulio’s fate. Neighbours testified to the fact that Isolina looked very cunning; that she consorted with soldiers; that she was both insolent and a ‘little gossip’. How did these people regard the girl after her having flirted with him resulted in his arrest and imprisonment? Probably not very well: if, on the one hand, judges had sentenced Giulio; on the other hand, society condemned Isolina. Basically, the common belief was that it was ‘natural’ for males to try to seduce females as well as it was very difficult attempting to resist female sexual incitements, while girls and women were ‘naturally’ sexual passive unless they were ‘corrupted’ or *maliziose*. This is why defendants usually tried to justify themselves resorting to the *malizia* of girls. These ideas were supported by scientists too. The well-known Italian anthropologist Paolo

²⁰⁵ P. VIAZZI, *Sui reati sessuali. Note ed appunti di psicologia e giurisprudenza*. Torino: Fratelli Bocca, 1896, p. 19.

Mantegazza published in 1873 the work *Fisiologia dell'amore* in which he clearly stated men were naturally aggressive and women had only to defend themselves.²⁰⁶ Also in what has been defined 'the bible of the nineteenth-century sexology'²⁰⁷, Richard von Krafft-Ebing's *Psychopathia Sexualis*, we can read that men naturally wanted to have sex and they were aggressive and impetuous. By contrast, women were passive; 'if their intelligence was normal and they had been well-educated', they usually felt a weak sexual desire.²⁰⁸ Clearly, the image of Isolina the trial gives back is not that of a 'well-educated girl' despite the fact Giulio was finally convicted.

It is evident that adjustments in sentencing practice since the establishment of the *Corte d'Assise* cannot realistically be attributed to any significant change in attitudes to childhood. Nevertheless, there was self-evidently a change. How then is it to be explained? The short and simple answer is the unification of Italy. As Hugh Cunningham wrote with reference to European states in general, during the nineteenth century children became the major resource of the nations, and this resource was to be cultivated in the best possible way; otherwise, a process of national deterioration would be launched, with a concomitant loss of power and status in comparison with other nations.²⁰⁹ This led governments, including the Italian, to take measures to improve children's education and health.²¹⁰ Children were a kind of 'property of the nation' as well as a symbol of it.²¹¹ In 1881 a journalist from Florence published a piece entitled 'To save the honour of Italy' in which he denounced the fact a lot of impoverished and starving Italian children of both sexes were to be found in the streets of European cities, London and Paris,

²⁰⁶ P. MANTEGAZZA, *Fisiologia dell'amore*, Milano: Bernardoni, 1873.

²⁰⁷ L. DOWNING, Sexual variations. In: C. BECCALOSSO, I. CROZIER, ed. *A cultural history of sexuality in the age of empire*. Oxford: Berg, 2011, p. 63.

²⁰⁸ VON KRAFFT-EBING, *Le psicopatie sessuali*.

²⁰⁹ H. CUNNINGHAM, *Storia dell'infanzia. XVI-XX secolo*. Bologna: Il Mulino, 1997, p. 203. First published as *Children and childhood in Western society since 1500*. London: Longman, 1995.

²¹⁰ See C. IPSEN, *Italy in the age of Pinocchio. Children and danger in the Liberal era*. New York: Palgrave MacMillan, 2006.

²¹¹ 'Property of the nation' is an expression used by T. ZAHRA, Each nation only cares for its own': Empire, nation, and child welfare activism in the Bohemian lands, 1900-1918, *American Historical Review*, December 2006, 1386. See also T. ZAHRA, *Kidnapped souls: National indifference and the battle for children in the Bohemian lands, 1900-1948*. Ithaca, NY: Cornell University Press, 2008.

Vienna and Munich.²¹² Measures to improve children's education and health had been also taken in Florence since the middle of the nineteenth century: the so-called *scienziati dei bambini*, experts of children's issues, were employed in public and private institutions and schools were open also for girls belonging to the lowest social classes.²¹³ It is possible that judges of the *Corte D'Assise*, the first penal court of united Italy, especially in Florence, capital from 1865 to 1871, perceived this general growing importance given to childhood and they made sexual violence against children – when public – unacceptable and consequently, punishment had to be imposed. Francesca Rampinelli, who has examined trials for abandonment of children the *Corte di Assise* of Florence dealt with from 1870 to 1900, detected the same growing intolerance shown by judges towards those who neglected the care of their children although the phenomenon was clearly decreasing.²¹⁴

Nevertheless, as Domenico Rizzo clearly underlines, 'the protection of a young person in the process of growing up gained ground not for its own worth but because of the final destiny of that person, namely a healthy citizenship.'²¹⁵ For instance, in 1865 when three public primary schools for poor girls were open in Florence, the man responsible for the public education of the city clearly stated the local administration aimed at bringing up 'clever and hardworking mothers'.²¹⁶

²¹² F. CAMBI, S. ULIVIERI, *Storia dell'infanzia*, p. 161

²¹³ P. GUARNIERI, Prendersi cura dei più piccoli. Il caso fiorentino (1875-1918). In: F. CAMBI, E. CATARSI, ed. *Genitori e figli nell'età contemporanea. Relazioni in rapida trasformazione. Firenze: Istituto degli Innocenti*, 2003, pp. 55-66. About education, V. MONASTRA, L'educazione delle 'figlie del popolo' nella Firenze della Consorzio. In: S. Soldani, ed. *L'educazione delle donne. Scuole e modelli di vita femminile nell'Italia dell'Ottocento*. Milano: Franco Angeli, 1989, pp. 233-252. S. FRANCHINI, *Élites ed educazione femminile nell'Italia dell'Ottocento. L'Istituto della Ss. Annunziata di Firenze*. Firenze: Olschki, 1993. GAUDIO, *Educazione e scuola*.

²¹⁴ F. RAMPINELLI, *Storie di abbandoni. I processi per esposizione d'infante a Firenze dal 1870 al 1900*. Firenze: Le Lettere, 2000.

²¹⁵ RIZZO, *Gli spazi della morale*, p. 118.

²¹⁶ MONASTRA, L'educazione delle 'figlie del popolo', p. 235.

‘The effects of her defloration would have been very visible and serious’: Giulia and Tommaso, 1891

In 1891 Baldassarre Nutini was 56, and well-known for his high standards of morality. He lived in via Aretina with his wife, his daughter Giulia, who was nine years old, his cousin and the latter’s wife. His place of work was also in via Aretina: the Asilo Evangelico. This institute had been established in 1876 with the aim of housing and educating orphans. Baldassarre was the coordinator of a house associated with the institute where orphans who had reached adulthood stayed for a while before leaving the Asilo. Baldassarre was a man on whom people could rely. Indeed, the director of the institute, the well-known Giuseppe Comandi, in 1890 asked him to give hospitality in his own house to Tommaso, a lonely, 70 year-old widower who had recently started working as a servant in the Asilo. Tommaso spent nearly one year in Nutini’s house benefiting from the trust and love of the family. According to what Baldassarre claimed, Tommaso came to be seen as a kind of ‘grandfather’. Suddenly, this manifest harmony crumbled. Baldassarre’s cousin informed him that Giulia had been sexually assaulted by Tommaso. Immediately, the girl was brought to a midwife who stated Giulia was no longer a virgin. On 15 December 1891 Baldassarre went to the police station of Santa Croce and denounced the man to the authorities.²¹⁷

At this time the *Codice Penale Toscano* was no longer in force. Indeed, in 1890 a new penal code, the *Codice Zanardelli*, had been extended to the whole country. The latter borrowed several elements from the Tuscan law such as the distinction between *delitti*, crimes, and *contravvenzioni*, the dangerous acts the police had to repress,²¹⁸ and a lot of expressions, such as *querela*, charge, *effrazione*, housebraking, and *agente*, the author of a crime.²¹⁹ Among the phrases that the new Italian legal code borrowed from the Tuscan, particular attention should be paid in this work to *violenza carnale* and *atti di libidine*: this taxonomy would only disappear in 1996 when both crimes were

²¹⁷ ASF, PA: 1892, b. 1433, II, f. 16.

²¹⁸ PADOVANI, La tradizione penalistica toscana.

²¹⁹ VINCIGUERRA, *Fonti culturali ed eredità*, p. 1024.

merged into sexual violence and reclassified as a crime against the person instead of acts against the morality and family. Nevertheless, in the nineteenth-century Tuscany there had already been who supported the idea that these sexual crimes should be labelled as crimes against the person, namely the well-known jurist Francesco Carrara, that as stressed in the previous chapter did not take part in the writing of the *Codice penale Toscano*.²²⁰ Going back to the comparison between the latter and the *Codice Zanardelli*, behind similarities, there were also some significant differences. First, the first Italian penal code raised the penalty established for these crimes: up to ten years and no longer eight years in case of *violenza carnale*; up to seven years and no longer five years in case of *atti di libidine*. Second, the new Italian legal system was more precise in its definition of *violenza carnale*: it established clearly the requirement of *congiunzione carnale*, actual sexual intercourse.²²¹ The body was central.

The file relating to Giulia's case contains a long medical report about her body. The girl was examined on 20 December 1891 by Angiolo Filippi, an already well-known doctor, and his pupil Lorenzo Borri. The former was the author of a manual of forensic medicine published the first time in 1889 and reissued for five times before 1919, and which would become famous for giving rise to the branch of legal medicine that deals with accidents.²²² The two doctors asserted that Giulia's hymen was intact and there were no other signs of violence. Consequently, it was not possible to establish the crime of *violenza carnale*. The two doctors wrote:

We must conclude this current report with an observation on how the experience of these cases has taught us how serious are the local and general

²²⁰ G. FIANDACA, I reati sessuali nel pensiero di Francesco Carrara: un onorevole compromesso tra audacia illuministica e rispetto per la tradizione. In: *Francesco Carrara nel Primo Centenario della morte. Atti del convegno internazionale. Lucca-Pisa 2/5 giugno 1988*. Milano: Giuffr , 1991, p. 521.

²²¹ T. CARLETTI, ed. *Codice penale con la giurisprudenza e gli atti ufficiali; referenze dottrinali; note di bibliografia; disposizioni transitorie; ultime leggi su la stampa, le materie esplodenti e il domicilio coatto*. Firenze: G. Barbera editore, 1902.

²²² A. FILIPPI, *Principii di medicina legale: per gli studenti legge ed i giurisperiti*. Firenze: G. Barbera, 1889, 1892, 1911, 1918, 1919.

characteristics of a genuine and real defloration of young girls; much more serious than what takes place between two individuals of the opposite sex but of more or less the same age. And the reason is the following: the disparity in proportions between the erect virile shaft of an adult man, and the vaginal opening of a female minor is such that if the virile shaft really does penetrate to the point that it breaks the hymen, it massively rips the narrow parts of the young girl. Now, in the case of Nutini, who was, one would say, violently squeezed by an adult man, the effects of her defloration would have been very visible and serious [...] In cases of a like nature it is not about the defloration that one can speak, but with greater truth of lewd contact.

Following what the two well-known doctors pointed out, judges sentenced Tommaso for *atti di libidine* to five years and ten months of prison. From 1890 to 1914, there were ten more trials whose outcome was a sentence for *atti di libidine*. Was the rape of a child still regarded as improbable? An examination of all cases addressed by the *Corte d'Assise* from the introduction of the *Codice Zanardelli* to 1914 would suggest otherwise. The court dealt with 27 trials: 22 cases ended with a conviction, three defendants were absolved, and two trials were interrupted; of the 22 men who were sentenced, nine of them were regarded as guilty of *atti di libidine*, like Tommaso, and thirteen were accused of *violenza carnale*.²²³ These data establish two things clearly: first, when compared with the outcomes of the trials addressed by the *Supremo Tribunale di Giustizia* at the beginning of the century, convictions became more usual; second, unlike the *Tribunale Collegiale di Prima Istanza* (1838–1865), judges started to sentence people for *violenza carnale* and not simply for *atti di libidine*. Therefore, since the middle of the nineteenth century, Florentine courts recognised the possibility of the rape of children. This change stood out in the first years of activity of the *Corte d'Assise*: as seen in the previous paragraph, of over 24 convictions only one was for *atti di libidine*; the others were all for *violenza carnale*. The novelty was less evident after the

²²³ ASF, Corte d'assise di Firenze, Registri generali, 15-16 (1890-1914). When the *registri generali* were missing some data, I looked for the latter in the collection of sentences: ASF, Corte d'Assise di Firenze 1866-1950, Sentenze, verbali e ricorsi: 39, 42, 47, 51, 53.

introduction of the *Codice Zanardelli* because of the expression *congiunzione carnale* entered into the definition of the crime of *violenza carnale*. This caused problems because it clashed with the prevailing medical notion according to which children's bodies were rarely penetrated. This explains why ten defendants were sentenced for *atti di libidine* as in the case of Tommaso. Nevertheless, another eleven men were regarded as guilty of *violenza carnale*. This occurred in some cases despite the fact the hymen of the victim was still intact.²²⁴ Therefore, it is self-evident that the outcomes of trials depended a lot on the judicial discretion. Going further this remark, what is significant, comparing these sentences to the others pronounced in the previous decades, is the acknowledgment of child rape. Finally, child rape became thinkable and possible in court.

The notion of *congiunzione carnale* was not the only novelty introduced by the *Codice Zanardelli*. As underlined in the previous chapters, the Tuscan legal tradition was based on the charge *ex-officio* (by virtue of office). Although the examination of cases since the beginning of the century brought to light that the majority of investigations started after parents' complaints, the fact that in the past the law had established the possibility for authorities to launch inquiries about acts of sexual violence without family's permission had a precise political significance: the government had the right to cross private boundaries. After Unification this right disappeared. Charges of *violenza carnale* could be made only by people damaged, in other words girls' relatives or legal guardians. The Liberal state did not deal with private matters, above all sexuality; government tried to regulate prostitution, but only because it was considered as a public service.²²⁵ Basically, the Italian state, as was the case in other European countries at that time, was interested in preserving public decency: respectability was a concept strictly connected to nationalism.²²⁶ This explains, for instance, why in 1865 officers of the law were instructed by the government to defeat the circulation of indecent

²²⁴ ASF, PA: 1896, b. 1606, I, f. 18; 1901, b. 2198, I, f. 9; 1902, b. 2240, II, f. 9.

²²⁵ P. WILSON, Gender and the private sphere in Liberal and Fascist Italy. In: P. WILSON, ed. *Gender, family and sexuality. The private sphere in Italy, 1860-1945*. Basingstoke: Palgrave Macmillan, 2004, p. 12.

²²⁶ G. L. MOSSE, *Nationalism and sexuality: middle class morality and sexual norms in modern Europe*. Madison: University of Wisconsin Press, 1985.

publications.²²⁷ It explains also why one of the circumstances when the charge *ex-officio* was possible was the case when the sexual assault occurred in a public place. As Domenico Rizzo emphasises, apart from the crime of ‘incest’, the notion of ‘public scandal’ was replaced by one of ‘scandal in a public place’; beyond these two expressions there was a different meaning attached to public, and consequently to private: public was no longer what was acknowledged by a community, but it was what happened in a place open to a community, in other words what occurred outside the home; public and private were two different spaces.²²⁸ For instance, in 1895 in Vinci, a small village close to Florence, a young farmer aged seventeen, Alfredo, sexually assaulted a girl, Angelica, aged eight. Angelica’s father first charged Alfredo with *violenza carnale* and then he decided to interrupt the trial. In the sentence, the judges wrote that they had ceased the proceedings as the girl’s father had requested because the incident had not occurred in a public place and consequently, the charge *ex-officio* was not admitted.²²⁹ Indeed, the main consequence of not admitting the charge *ex-officio* was that, even if a case came to the knowledge of authorities and they started investigations, they were obliged to interrupt enquires if private resolutions were achieved or simply, girls’ fathers changed their mind.

Therefore, as Angelica’s story clearly shows, families, or generally fathers who legally had authority, were free to denounce or not what had occurred to their children: families’ autonomy came before the rights of individuals or children. This collided with the ideology based on individualism that inspired the governments of the Liberal era. Raffaele Romanelli has stressed the way in which jurists sought to resolve this contradiction through depicting paternity not as a right but an obligation, a duty towards children who were the real holders of rights.²³⁰ Indeed, the other circumstance when the charge *ex-officio* was admitted, besides cases of sexual violence in a public

²²⁷ B. P. F. WANROOIJ, *Storia del pudore. La questione sessuale in Italia, 1860-1940*. Venezia: Marsilio, 1990, p. 21

²²⁸ RIZZO, *Gli spazi della morale*. pp. 162-163.

²²⁹ ASF, Corte d’Assise di Firenze 1866-1950, Sentenze, verbali e ricorsi: 42.

²³⁰ R. ROMANELLI, Individuo, famiglia e collettività nel codice civile della borghesia italiana. In: R. GHERARDI, G. GOZZI, ed. *Saperi della borghesia e storia dei concetti fra Otto e Novecento*. Bologna: Il Mulino, 1995, pp. 351-399.

space, was in cases of incest with public scandal: the authorities could legitimately intervene when they became aware of a father's having a sexual relationship with a son or daughter – thereby transgressing his legal duty to protect his children – and that relationship was widely known about within the local community.²³¹ Therefore, if the threat was inside home, the authorities could overstep private boundaries, but if the enemy was outside home, fathers were free to choose how to behave. For the state it was important not to have incest with 'public' scandal and not to have sexual violence in 'public' space. What governments expected from family – and this was true for states outside Italy too – was to give support from below to that respectability that the nation attempted to enforce from above. It was not a novelty that families had strictly to control the sexual conduct of women in order to defend family honour. This had also been true under the *ancien régime*. But from unification onwards, family honour became an equivalent of the honour of the Nation. George Mosse properly stressed that family became one of the 'policemen' of sexuality.²³² As ratified by the civil code, the *Codice Pisanelli*, women and children were under the authority of their husband and father; their individuality was strictly subordinated to two communities, namely the family and the Nation, whose honour was the main good to defend. It was no coincidence that during the Risorgimento 'the family was a powerful way of imagining the nation as an organic community, united by the ties of blood, history and emotions.'²³³ As Patrizia Guarnieri demonstrates, infanticide similarly became at that time a minor crime because authorities wrongly supposed the majority of people who committed this crime were pushed by the intent of saving honour and consequently, they were partly justified.²³⁴ It should be underlined that in Italy the 'question of honour' was abolished, not only for infanticide, but also for other crimes, only in 1981. All these

²³¹ I will write about incest in the last two chapters.

²³² 'The prevailing sentiment was that the family was a cheap and efficient surrogate for the state, controlling the passions at their source. Clearly, the family was the policeman on the beat, an indispensable agent of social control as directed by physicians (more often than not the family doctor), educators, and the nation itself.' MOSSE, *Sexuality and nationalism*, p. 20.

²³³ L. RIAL, The sex lives of Italian patriots. In: V. P. BABINI, C. BECCALOSSO, L. RIAL, ed. *Italian sexualities uncovered, 1789- 1914*. Basingstoke: Palgrave Macmillan, 2015. p. 37.

²³⁴ P. GUARNIERI, Forzate analogie. L'infanticidio nel discorso giuridico. In: P. GUARNIERI, ed. *In scienza e coscienza. Maternità, nascite e aborti tra esperienze e bioetica*. Roma: Carocci, 2009, p. 50.

considerations about family, nation and honour were behind the impossibility of admitting the charge *ex-officio* in cases of sexually-assaulted girls under twelve. In 1907 Edoardo Majno denounced this impossibility in a book where he wrote very often families did not charge rapist not in order to save honour, but because they were poor and they preferred to 'forgive' whoever it was who had abused their daughter in order to obtain financial compensation. Majno's arguments were subsequently distorted to suggest that the poor were inherently immoral, and that girls from poor backgrounds were sexually precocious.²³⁵

As already highlighted, girls had always to prove their innocence. It could be useful at this point to return to Giulia's story and, rather than focus on her network, obviously supportive given her father's reputation, to look at her depositions. Giulia was examined twice: the first time on 15 December 1891 and the second time, a few days later, on 19 December. What appears striking was a change in language: while in the first deposition she called male sexual organ 'penis', in the second examination she used the sentence 'that hard thing with which men piss.' It is impossible to establish whether this variation should be ascribed to the girl, doubtless possessed of agency, or to the public official who transcribed her testimony, but this was not the really significant point. What should be underlined is the linguistic conformity in the second deposition to the usual words young girls supposedly used to describe sexual organs: words that showed their ignorance about sex. Giulia or the officer probably well knew that girls had to use an inaccurate language in order to prove their ignorance, which was synonymous of innocence. The above quoted medical report written by Angiolo Filippi and Lorenzo Borri concluded with this sentence:

In such cases it is the circumstantial evidence that can be most of value as well perhaps as the psychological investigation, which, for the most part, reveals a cunningness in the young girl's sense of shame, such a lack of interest in matters or words of a sexual nature as to indicate that the sexual mystery has in fact been unveiled and that her little girl has known a man.

²³⁵ E. MAJNO, *I reati carnali contro i fanciulli studiati nella legge italiana*. Milano: tipografia nazionale, 1907, pp. 74-75.

Giulia's knowledge raised no doubts: she 'had known the man'. But why was it not taken into account that girls could acquire sexual knowledge from other sources apart from the direct experience? The answer is brutal: because it did not matter. Even if girls had acquired sexual knowledge indirectly, automatically the latter would have transformed them into corrupted girls prone to practice what they had learned. In other words, from being girls in danger they became dangerous girls who could threaten the social order through immoral sexual conduct. Not for coincidence, at the end of the nineteenth century the well-known criminologists Cesare Lombroso and Guglielmo Ferrero put 'sexual precocity' among the signs of the criminal woman, namely the prostitute.²³⁶ Popular and widespread beliefs became legitimised by science.²³⁷ We do not know the future of the girls involved in the trials I have examined. Nevertheless, we can imagine many were sent to institutions aimed at re-educating them or at protecting society from them.²³⁸

'There was not any reason to suppose the girl was lying':

Rina and Alberto, 1914

At the end of the last April, while I was doing my daughters' bed [...], I saw into it a stain of discharges. I asked who could have left it and Bruna told me Rina had been emitting discharges from down for several days. I caught the girl, I examined her genitals and I saw they were covered by discharges [...] It was long time I have known Alberto was affected by venereal disease and this speech pronounced by her made me suspicious [...] She finally told me Berto had touched her.'²³⁹

²³⁶ C. LOMBROSO, G. FERRERO, *La donna delinquente. La prostituta e la donna normale*. Torino: Fratelli Bocca, 1903, p. 374. First published as C. LOMBROSO, G. FERRERO, *La donna delinquente. La prostituta e la donna normale*. Torino, Roma: L. Roux e c., 1893.

²³⁷ About Cesare Lombroso, see P. KNEPPER, P. J. YSTEHEDE, ed. *The Casare Lombroso handbook*. London, New York: Routledge, 2013.

²³⁸ See with regard to England, JACKSON, *Child sexual abuse*, pp. 132-209.

²³⁹ ASF, PA: 1915, b. 17, f. 18.

This was the deposition made by Giulia T. before the investigating judge on 7 May 1914, two days after having brought charges against Alberto C. for *violenza carnale* towards her daughter. Giulia was a widow aged 37; she had two daughters, one named Bruna aged ten and one called Rina aged eight. To support her family, she managed a small dairy in Florence in via Michelangelo Buonarroti, where her assistant was Alberto C., 20 years old in 1914. Alberto had been working for Giulia for six years; therefore, when he started his job he was a young boy aged fourteen: supposedly, he was a kind of third son for Giulia; presumably, it was not easy for the woman to charge him with *violenza carnale* towards her daughter Rina. In this story Giulia played a key role because she was single; in other words, she had herself to go to the police station of Santa Croce, to accuse Alberto of *violenza carnale*, and trigger investigations. These things she could do on her own account without the marital authorization, expected of married women, because she was a widow. There were other cases where the charge came from single mothers.²⁴⁰ As Lucia Ferrante has written, the absence of men legally responsible for such women has been an important criterion to evaluate the single status of the latter: singleness was understood as minor protection and greater vulnerability and fragility. It was a kind of social loneliness due to the economic and legal inferiority of women.²⁴¹ Giulia, of course, was not alone: she had two daughters, customers, and probably a circle of friends, but according to the norms of society and the law, she was on her own. Supposedly, for widow mothers dealing with cases of sexual violence towards their daughters the most convenient way to address the problem was to have recourse to the authorities. This act demonstrated on the one hand, the isolation of such women and their need for support. But, on the other hand, such an act also proved their agency, independence, and energy. As studies of the early modern era have shown especially, widows often made their condition a point of strength from which they obtained advantages.²⁴² Since the middle of the nineteenth century, those building the new Italian state had been constructing a nation grounded in

²⁴⁰ For instance, ASF, PA: 1873, b. 513, f. 370; 1893, b. 1473, II, f. 31.

²⁴¹ L. FERRANTE, Il valore del corpo, ovvero la gestione economica della sessualità femminile. In A. GROPPI, ed. *Il lavoro delle donne*. Roma: Laterza, 1996, p. 209.

²⁴² G. ALESSI, L'uso del diritto nei recenti percorsi della gender history. *Storica*, 1999, 15, 106. See also T. KUHEN, *Law, family & women: toward a legal anthropology of Renaissance Italy*. Chicago: University of Chicago Press, 1991, pp. 197-258.

families and above all in the authorities of fathers. Single women could disturb and threaten this order. In addition, their need for legal support made public things that the authorities would prefer to remain hidden. Cécile Dauphin points out that, in this period, single women became a problem debated with scaremongering throughout Western Europe as wars and violence had reduced the number of adult males.²⁴³

The single status of Giulia was not the only kind of isolation or loneliness that features in this story. Her daughter, Rina, also suffered from solitude. The girl recounted: 'one morning, while I was in the bed and my sister Bruna was putting her clothes on, my mother's assistant, named Berto, entered into the bedroom and he told us that he had come to get the sewing machine. He sent Bruna to my mother to ask her where the machine cable was and, being left ALONE with him, he undressed me, he raised my shirt and he lay down on me.' Allegedly, Rina and her sister were very often left alone because of their mother's job; in their house there was also another flatmate, a man aged 35, but he was a shopkeeper like their mother and in consequence often out during the working day. In addition, Giulia was not originally from Florence; she was born in a village close to Arezzo and probably lacked the support of close relatives. Being left on their own was common to girls in several cases. Parents could be absent because of their job or ill health. For instance, in 1893 both parents of Iole, a girl aged nine, fell ill simultaneously. The father was admitted to the hospital Santa Maria Nuova and he died few days later, while her mother was hosted in the maternity hospital. Before leaving home, the latter asked a neighbour, a woman called Faustina, to take care of her children, 'especially' her daughter. The fact she 'especially' entrusted Iole rather than her brothers to Faustina's care disclosed the awareness of the necessity of protecting a young girl left alone. Nevertheless, Faustina could not keep her eyes on Iole all the time because she worked as *ombrellaia*, making and selling umbrellas: out of her view Iole was raped.²⁴⁴ Social status becomes an issue here: as Ann-Marie

²⁴³ C. DAUPHIN, *Donne sole*. In: G. FRAISSE, M. PERROT, ed. *Storia delle donne in Occidente. L'Ottocento*. Roma-Bari: Laterza, 2007, p. 386

²⁴⁴ ASF, PA: 1893, b. 1473, II, f. 31

Sohn has argued with reference to France, girls belonging to upper-class families were probably less in danger because they were more monitored.²⁴⁵

Another element of Rina's story, which finds echo in several other cases, was the diagnosis of venereal diseases. Frequently mothers learnt about the sexual violence after discovering their daughters had vaginal discharges. This was true also in the previous decades and in other social contexts as proved by Louise Jackson, who has studied England, and Stephen Robertson, who conducted research on New York.²⁴⁶ How is this recurring element best explained? First, very often girls testified they did not want to disclose what they experienced because they felt embarrassed and they were scared by rapists' threats. Therefore, venereal diseases, although they were not something to wish for, might have the positive function of 'breaking the silence' and 'bringing to light' abuses. Second, parents could be more prone to bring charges against those who committed violence towards their daughters when they suffered from vaginal discharges because the latter could be a clear proof of what occurred. In other words, parents could more easily hope for a sentence in their favour, especially in the second half of the nineteenth century. Indeed, at this time, as confirmed by the new regulations on prostitution, authorities were very concerned about venereal diseases.²⁴⁷ Last but not least, the information that girls were afflicted by vaginal discharges could easily become public; all these trials showed people spoke a lot: rumours went round quickly. It should be taken into account that vaginal discharges were usually connected with sex; it was not a coincidence that people called them 'men's evil'. As highlighted by Claude Quétel, venereal diseases are the only pathologies of mankind to be defined by the way people acquire them: venereal. Their name includes both sex and sin.²⁴⁸ Therefore, possible rumours about one girl's vaginal discharges might have fostered doubts about her sexual conduct and above all about her morality and honour. As revealed in other trials, sometimes

²⁴⁵ ANNE-MARIE SOHN, L'oltraggio al pudore sulla persona della bambine e la sessualità nella vita quotidiana (Francia 1870-1939). In: CORBIN, ed. *La violenza sessuale nella storia*, p. 68.

²⁴⁶ JACKSON, *Child sexual abuse*, p. 33. ROBERTSON, *Crimes against children*, p. 42.

²⁴⁷ G. GATTEI, La sifilide: medici e poliziotti intorno alla 'Venere politica'. In: F. DELLA PERUTA, ed. *Storia d'Italia. Annali 7. Malattia e medicina*. Torino: Einaudi, 1984, pp. 741-798.

²⁴⁸ C. QUÉTEL, *Il mal francese*. Milano: Saggiatore, 1993, p. 11. First published as *Le mal de Naples. Histoire de la syphilis*. Paris: Seghers, 1986.

in order to defeat rumours and ‘remedy’ social honour it could be more convenient to resort to authorities and obtain a kind of public reparation. While people used to link vaginal discharges to venereal diseases and sex nearly automatically, doctors were very ambiguous and they explained them through several reasons such as dirt or superficial contact with an infected body: sex was not the only means of transmission. For instance, in 1905 two doctors saw a girl aged nine, named Giuseppina, who was suffering from gonorrhoea and who had charged one of her cousins with *violenza carnale*. The doctors asserted that she had contracted the disease by ‘indirect channel’ and they added:

This indirect way of contagion is particularly common in young girls because of the anatomic condition of their genitals, a condition that fosters the taking root of the gonorrhoea. We have knowledge of many young girls afflicted by gonorrhoea and in several cases we should convince ourselves the contagion occurred by chance. Very often these girls had in their families someone with gonorrhoea and they were infected through clothes the sick person had used or they might have slept together in the same bed.²⁴⁹

According to Jackson and Robertson, doctors had the same behaviour in England and in New York.²⁵⁰ So, as at the beginning of the nineteenth century, doctors did not take a clear stand and they were reluctant to declare sexual abuse; they were very suspicious about the possibility of young girls’ rape: their bodies were penetrated with difficulty and venereal diseases could be contracted easily by indirect contact with infected bodies.

Another doubt, which hid a prejudice, expressed above all by judges and lawyers, that emerged from trials, was that the alleged victims might not be telling the truth: girls could lie. In the document by which the *sezione d’accusa* charged Alberto, lawyers wrote there was not any reason to suppose the girl

²⁴⁹ ASF, PA: 1906, b. 2414, III, f. 17

²⁵⁰ JACKSON, *Child sexual abuse*, p. 73. ROBERTSON, *Crimes against children*, p. 43.

was lying. In a sentence pronounced in 1902 against Emilio D. charged with *violenza carnale* towards a girl aged nine, judges specified:

The accused could not point to any reason for vengeance or hatred that might have raised the possibility that the little girl might be speaking because inspired to do so by her daddy [...] That the most miserable conditions of Emilio D. absolutely excluded the suspicion that a machine of calumnies had been assembled on his part to secure some sort of pecuniary compensation.²⁵¹

Behind these words, there was either the idea that a charge of rape could be easily used for reasons of personal economic gain or other advantage,²⁵² or the belief that children were very prone to lie. The image of children that emerged from trials did not correspond with that of the ‘angel of innocence’ depicted by literature and religion. Even parents suspected their children’s honesty. Rina’s mother, Giulia, recounted that she had asked her flatmate to examine the girl ‘in order to be sure she was telling the truth.’ As seen in the previous chapters, this suspicion was longstanding: it was also evident in trials from the early nineteenth century. As a Tuscan proverb declaimed, ‘every day children put on an ounce of flesh and one of malice.’²⁵³ In addition, although in the past some philosophers such as Kant and Descartes had depicted children in negative terms, by the end of the nineteenth century psychologists and criminologists had begun to offer scientific explanations of the child as ‘a little perverse being’.²⁵⁴ Cesare Lombroso described children as ‘irascible, selfish, cruel, revengeful, jealous, liars and thieves, without sentiments, lazy, changeable, narcissistic and indecent’.²⁵⁵ Paolo Mantegazza, read by a wider public, asserted children had a spontaneous passion for pranks

²⁵¹ ASF, PA: 1902, b. 2240, II, f. 9.

²⁵² For instance, in 1912 an entire village, Barberino Val d’Elsa, accused a teacher of a primary school of having done lewd acts with several pupils. The man defended himself asserting the charge was false and the entire village was charging him because people wanted to expel the ‘foreign’ teacher. ASF, PA: 1913, b. 13, f. 8.

²⁵³ G. CAPPONI, *Raccolta di proverbi toscani nuovamente ampliata da quella di Giuseppe Giusti*. Firenze: Successori Le Monnier, 1871.

²⁵⁴ P. GUARNIERI, Un piccolo essere perverso. Il bambino nella cultura scientifica italiana tra Otto e Novecento. *Contemporanea*, IX, 2006, 253-284.

²⁵⁵ *IBID*, p. 266.

and tedious games.²⁵⁶ This negative picture became more robust when related to female children because the common belief was that girls grow up sooner than boys. Their bodies developed more quickly and, consequently, puberty arrived in advance; also their intellect was more mature compare to that of male children. Nevertheless, as Lombroso stressed, their feelings about morality were very weak and, therefore, their maturity could transform them into ‘genius of evil’.²⁵⁷ Among the bad things girls could do, there was doubtless lying even because ‘speech [...] and chatting were very developed in women.’²⁵⁸ These ideas expressed by the well-known Italian anthropologist were very popular. The lawyer Pio Viazzi in a work published in 1896 about sex crimes highlighted the majority of victims of rape in courts were young girls and he added: ‘we should take into account their particular inclination to lie, inclination asserted by proverbs, ratified nearly by all the old laws and enlightened by science.’²⁵⁹ Among Tuscan proverbs, one was very clear: ‘A woman, no matter how small, beats the devil when it comes to low cunning.’²⁶⁰ Nevertheless, despite the fact girls were believed to grow up earlier than boys, after childhood roles were reversed with boys becoming superior. Indeed, in 1906 in a volume of the *Digesto*, a kind of national encyclopaedia of Italian law, in the explanation of what underage was, it was written:

[...] as all anatomists and psychiatrists tell us, woman reaches the upper limit earlier than man, and arrives at complete psychological maturity at a younger age than the male, if nevertheless remaining in the entirety of her existence in conditions of inferiority with respect to a man.²⁶¹

This alleged inferiority of women established a close connection between them and children: both were very prone to lie. Lombroso asserted: ‘Woman is like a child: as she is weak, she feels the instinctive need of being protected and she is proud and happy owing to man’s protection. For this

²⁵⁶ IBID, p. 267.

²⁵⁷ LOMBROSO, *La donna delinquente*, pp. 176, 485.

²⁵⁸ IBID, p. 174.

²⁵⁹ VIAZZI, *Sui reati sessuali*, p. 210.

²⁶⁰ CAPPONI, *Raccolta di proverbi toscani*.

²⁶¹ P. PAGANI, Minorenne. In: *Il Digesto Italiano. Enciclopedia metodica e alfabetica di legislazione, dottrina e giurisprudenza*. Diretta da Luigi Lucchini. Vol. XV. Torino: Utet, 1904-1911, p. 650.

reason she often simulates [...] a pain she is not suffering really [...] to conclude a woman is a big child, and children are liars par excellence.’²⁶² Outside Italy, in England, in 1913 the surgeon Gurney Williams in an article published on the ‘International Clinics’ wrote: ‘Like an adult woman, a female child is ready to lie with the same aptitude shown by a morphine addict.’²⁶³ Therefore, children usually lied, but girls lied much more because they were female and consequently, ‘teacher of tricks’ throughout their lives since they never truly grow up: girls are never women, women are always girls.

Beyond age and gender, another element fostered the suspicion that girls involved in trials addressed by the *Corte D’Assise* could lie: the social class they belonged to, namely the lowest one. All these girls were daughters of small shopkeepers, like Rina, farm labourers or craftsmen. ‘Moral sentiments’ – Lombroso wrote – ‘were by nature weaker in female children, even in the cases of the best education and in the happiest conditions of life; just imagine what happens when they grow up in deprivation.’²⁶⁴ Research conducted by late nineteenth-century anthropologists on the morality of poorest social classes, both urban and rural, pointed out that families lived in conditions of ‘brutal promiscuity’ that, combined with widespread alcoholism and genetic defects, had the consequence of destroying girls’ ability to resist forbidden passions.²⁶⁵ Poor girls’ charges of *violenza carnale* could be regarded as untrue either because they probably were sexually precocious and the accomplice of the alleged rapist or they were just lying, driven by their innate inclination to falsehood and their social lack of morality. This prejudice against girls who belonged to the lowest classes was not a distinctively Italian trait. Joanna Bourke has found evidence in documents written by British doctors and lawyers during the nineteenth century that illustrates the extent to which the idea was widespread that poor girls were immoral and given to lying. Moreover, mothers were sometimes accused of scarring their daughters’

²⁶² LOMBROSO, *La donna delinquente*, p. 132, 139.

²⁶³ J. BOURKE, *Stupro. Storia della violenza sessuale dal 1860 a oggi*. Translated from the English by Maria Giuseppina. Roma-Bari: Laterza, 2009. p. 34. First published as *Rape. A history from 1860 to the present day*. London: Virago Press, 2007.

²⁶⁴ LOMBROSO, *La donna delinquente*, p. 485.

²⁶⁵ WANROOIJ, *Storia del pudore*, p. 137, 153-158.

genitals in order to charge someone with carnal violence and obtain economic reparations.²⁶⁶

Going back to Rina's story, what was the outcome? Alberto was sentenced to five years, six months and twenty days of prison. Nevertheless, this trial showed that old prejudices about girls were still in force; first of all, that according to which girls, and above all girls from the lowest social classes, often lied. Luckily, 'there was not any reason to suppose the girl (Rina) was lying'.

To sum up, even if since the middle of the nineteenth century the *Corte di Assise*, unlike the earlier courts, more often sentenced men accused of having assaulted girls under twelve; even if penalties, above all after the introduction of the *Codice Zanardelli*, became harsher; even if for the first time the children rape became thinkable and possible to declare in courts, these changes should not be overestimated. The inadmissibility of the charge by the virtue of office (*ex-officio*) proved that the main concern was not about the protection of children, but about the defence of the family/nation honour; obviously, when these stories of violence reached the court becoming 'public' the defendants were punished because 'children were the main source of the nation'. Doctors were still reluctant to acknowledge the rape of children and they resorted to several reasons that excluded sexual violence to explain the loss of virginity or venereal discharges. Defendants and injured parties were usually from the lowest social classes: rapes appeared to be absent in the upper classes. Obviously, we know this was untrue. Although the number of trials was bigger than the previous centuries, private settlements were still the preferred way of solving these 'accidents'. Finally, girls were always under trial and subject to many suspicions: that they could be *maliziose* and therefore responsible for what they suffered; that they were prone to lie easily, especially the poor girls.

²⁶⁶ BOURKE, *Stupro*, pp. 32-33

Part II

Sexually assaulted boys

This second part focuses on sexual violence against male children. I have decided to deal with trials in which injured parties were boys separately from those involving girls for two reasons. First, methodologically, it is worth from the outset making a distinction between boys and girls since the trials of those who abused them were characterised by markedly different approaches. Obviously, this distinction permits a further comparison that cannot be avoided and which casts light on the way in which boys and girls were viewed in Tuscan society. Second, it is important to emphasise that the laws regulating sexual violence against males and females in the first half of the nineteenth century defined these acts of violence as different crimes, so dealing with both at the same time would have been confusing from a purely legal perspective.

Until the middle of the nineteenth century the crime of sexual violence against boys did not exist. There was a brief parenthesis during the French domination as the French penal code issued in 1810 established that both men and women could be raped. Otherwise, before 1853 people accused of having sexually assaulted boys under twelve were charged with sodomy. In a paper published in 2010 Stephen Robertson has to some extent denounced the non-inclusion of sodomy in the historiography about sexual violence as well as the way that historians of homosexuality have neglected sexual violence against men in favour of stressing consensual same-sex behaviour and social attitudes toward that behaviour. Nevertheless, behind stories of sodomy we can find cases of sexual abuse that cannot be neglected and can enrich both historiography on sexual violence and that of gay history.²⁶⁷

Before proceeding further it is necessary to clarify what sodomy was. Sodomy was not a synonym for homosexuality; the sexual act it referred to lacked specificity: it might have been oral or anal sex performed by a man and a woman or by persons of the same sex. Behind the disapproval of sodomy, also defined as an 'act against nature', there was the condemnation of sexual acts not aimed at reproduction: the question of whether or not the sexual 'crime' was between two people of different sexes or of the same sex was

²⁶⁷ S. ROBERTSON, Shifting the scene of the crime: sodomy and the American history of sexual violence. *Journal of the history of sexuality*, 2010, 19 (2), 223-242.

clearly not central.²⁶⁸ There is a big debate among historians about sodomy and homosexuality. On the one hand, the constructionist approach of Foucault and others argues that the concept of homosexuality developed in the nineteenth century. On the other hand, essentialists insist that although the term homosexual might be a nineteenth-century invention the concept was not.²⁶⁹ Despite the fact when I have conceived this thesis I had no intention of participating in this debate, during research in the archive and examination of trials I kept it in mind and I paid attention to significant dynamics I will describe later. In other words, I asked my primary records whether or not the concept of homosexuality came out from trials throughout the century.

This second part of the thesis is divided into two chapters. The divide is made by the change in law, namely when in 1853 the *Codice penale Toscano* abolished the crime of sodomy and made the crime of *violenza carnale* possible towards both female and male victims. From 1786 to 1914 Florentine courts dealt with 42 cases of sexually assaulted boys.²⁷⁰ The research questions are the same for trials involving girls: How did all the penal codes regulate sexual violence against boys? How many cases were reported to the authorities and why? How did children describe themselves and the sexual acts they suffered? What were the identities of the defendants? How did they try to defend themselves? How did parents and neighbours act? How did doctors describe boys' bodies? How was the crime judged in courts? And above all, were the prejudices expressed towards girls applied also on boys, or, in other words, how far ideas about innocence were gendered?

²⁶⁸ See J. GOLDBERG, *Sodometries: renaissance texts, modern sexualities*. Stanford: Stanford University Press, 1992.

²⁶⁹ 'We must not forget that the psychological, psychiatric, medical category of homosexuality was constituted from the moment it was characterized (...) less by a type of sexual relations than by a certain way of inventing the masculine and the feminine in oneself. Homosexuality appeared as one of the forms of sexuality when it was transposed from the practice of sodomy onto a kind of interior androgyny, a hermaphrodism of the soul. The sodomite had been a temporary aberration; the homosexual was now a species'. M. FOUCAULT, *The history of sexuality*. Vol. 1. *An introduction*. Translated from the French by Robert Hurley. New York: Vintage books, 1990, p. 43. First published as *La volonté de savoir*. Paris: Editions Gallimard, 1976. About the following debate, see E. STEIN, ed. *Forms of desire. Sexual orientation and the social constructionist controversy*. New York: Routledge, 1992. R. HALWANI, Essentialism, social constructionism, and the history of homosexuality. *Journal of Homosexuality*, 1998, 35 (1), 25-51.

²⁷⁰ See Chart 1, p. 192.

Chapter IV

Sodomy: a major offence?

‘I don’t know anything’: Giuseppe and Luigi, 1797.

In 1797 Giuseppe was a little boy aged eight; he lived in Florence together with his father, who was a dressmaker, and his mother, who was a ribbon maker and silk spooler. Giuseppe too tried to support his family by working as assistant to Luigi, a 24 year-old hairdresser in via S. Egidio, in the heart of the town. In March Giuseppe confided to his mother that he felt a burning sensation to his backside. The boy was brought to the hospital where doctors said he was affected by haemorrhoids and they suggested a treatment of mallow and barley lavages. Giuseppe’s father later recounted that this treatment did not have any effect and consequently, they returned to the hospital and where it was discovered that the boy was not affected by haemorrhoids, but by condyloma. Afterwards, Giuseppe affirmed he had been infected by Luigi, the hairdresser for whom he worked. Seized with fury, the boy’s father rushed to Luigi’s workshop, only to find that it was closed; people told him that the hairdresser had fled to Lucca. Probably on account of the medical report or because of a complaint lodged by Giuseppe’s father after he had been unable to exact revenge himself, these facts were known by police that on 22 April 1797, when they charged Luigi *ex-officio* with sodomy of a boy of tender age. The case then came before the *Supremo Tribunale di Giustizia*.²⁷¹

The *Codice Leopoldino* established that sodomy together with adultery, bigamy and bestiality had to be punished in the case of men by the *ultimo supplizio*, namely life imprisonment, for men and women found guilty faced twenty years in the house of correction. The different penalties for men and women were justified by the old-fashioned idea according to which the latter

²⁷¹ ASF, STG: 462 (trial n. 133).

were the *fragilitas sexus* and they had to be treated like minors.²⁷² In addition, sodomy was punished more harshly than violent rape towards a girl under twelve: the maximum permitted penalty rather than a defined period of hard labour. Basically, while the rape of a woman was regarded as a natural intercourse contaminated by an unacceptable violence, sodomy was an ‘act against nature’ according to a categorisation that came from Christianity, especially from the *Summa Theologiae* by Thomas Aquinas.²⁷³ It should be underlined that penalties established by the *Codice Leopoldino* were stricter than the previous ones that regulated sodomy. The last law, dated 8 July 1542, prescribed fines that were replaced by physical humiliation in public when those fines went unpaid.²⁷⁴ Actually, the harshest penalties were established in the late middle-ages: castration or death, even prescribing fines for people who mentioned the subject in songs. The increased intolerance towards sodomy in the late middle ages was exhibited by law not only in Florence, but also in other Italian towns and in other European countries.²⁷⁵ Nevertheless, in the late middle-ages harsh penalties were rarely applied and they were eventually replaced by fines. The fact the *Codice Leopoldino* at the end of the eighteenth century established penalties for sodomy that were harsher than mere fines testifies to the will of the secular legislator to impose a tight regulation of sexual habits.

Since he was under twelve years of age Giuseppe was deemed a child of tender age. On 7 April 1797 he was interrogated and his language was reminiscent of that used by girls. He recounted:

One morning about a month ago, while we were in the shop, my boss and me, he led me into the little room attached to the shop, he pulled down my trousers, lifted up my shirt, and unbuttoned the flap at the top of his trousers, he took out that piece of meat, that we men have at the nether regions of our

²⁷² M. GRAZIOSI, “Fragilitas sexus”. Alle origini della costruzione giuridica dell’inferiorità delle donne. In: MARIA FILIPPINI, PLEBANI, SCATTIGNO, ed. *Corpi e storia*, pp. 19-38.

²⁷³ J. BOSWELL, *Christianity, social tolerance and homosexuality*. London: University of Chicago Press, 1980, p. 323.

²⁷⁴ *Legislazione Toscana. Raccolta illustrata dal Dottore Lorenzo Cantini*. Vol. I. Firenze: Per Pietro Fantosini e figlio, 1800, pp. 210-213.

²⁷⁵ G. RUGGIERO, *The boundaries of Eros. Sex, crime and sexuality in Renaissance Venice*. Oxford: Oxford University Press, 1985, p. 110. BOSWELL, *Christianity*, p. 287-289.

body that we piss out of, and hugged me and got up close to the hole where I shit, and he shoved insider me that piece of meat, causing me great pain and after having held it inside me for three or four minutes he pulled it out since I was screaming, and I said that he was steadfast and from that time on he did the same business with me nine or ten times, in the same way and in the same place as I have recounted and after the aforementioned Luigi N., my master, began to do this business to me, the boils started to arrive in my behind.

‘Piece of meat that we men have at the nether regions of our body that we piss out of’, ‘the hole where I shit’: with this vocabulary Giuseppe, like the girls we have encountered in the first three chapters, demonstrated his ignorance about sex. Officers of the law clearly tried not to put words into the boy’s mouth; to verify if Luigi ejaculated or not, they did not use words such as ‘semen’, but they asked to the boy if he felt something warm coming into his body. Moreover, after the affirmative answer of Giuseppe, they sought to evaluate his sexual knowledge by questioning if he knew the nature of the liquid the man excreted. The child promptly answered ‘I don’t know anything.’ Probably, like girls, young boys also had to display ignorance about sex in order to appear innocent. In addition, the suspicion that children could lie fell also upon males. Officers of the law questioned people from via Sant’Egidio, the street where Luigi and Giuseppe worked, about whether they considered the boy to be a child who could tell the truth and what they thought about the defendant. All witnesses testified that Giuseppe was sincere, while Luigi was known to be ‘a good for nothing’ or ‘a calamity full of vices’. The verb ‘sodomise’ in depositions was not used; people, unlike lawyers and judges, described the crime using words such as ‘to embrace’, ‘to bugger’, ‘to fuck’, ‘to serve’ (in a sexual sense) or ‘to use’ or ‘make use’ of someone. The popular vernacular used to describe sexual intercourse had evidently not changed since the early modern age.²⁷⁶

²⁷⁶ M. ROCKE, *Forbidden friendships: homosexuality and male culture in Renaissance Florence*. Oxford: Oxford University Press, 1996, p. 90.

Like girls, young boys who had supposedly been the victims of sex crimes were seen by doctors. Ottaviano Targioni Tozzetti and Giuseppe Galletti wrote about Giuseppe that he had a distended sphincter and he was infected with condyloma. The reason of this condition was with high probability external. Nevertheless, they were not able to establish what exactly ‘something robust’ was, although probably a penis. They concluded the report stating ‘we shall let investigations find the perpetrator.’ As in cases of the rape of girls, doctors tried not to take a clear stand.

What was the outcome of this trial? Taking into account the way that Giuseppe used the language of innocents, people believed the boy was telling the truth; doctors, although quite reticent, confirmed the infection; Luigi was convicted of sodomy and sentenced to three years of exile from Florence. Nevertheless, he was defaulter and he dodged formal punishment.

‘Three years of exile’ was not a very harsh penalty considering the law established life imprisonment for sodomy. Actually, from 1786 to 1808 the *Supremo Tribunale di Giustizia* pronounced three convictions against men accused of having sodomised boys under twelve.²⁷⁷ Besides Luigi, Giuseppe, a native of Pisa, but staying in a house of correction in Florence, was accused in 1788 of having seduced a very little boy of ‘tender age’ in the Fortezza da Basso.²⁷⁸ Giuseppe admitted his guilt and doctors unequivocally declared the boy’s anus was full of pustules. In addition, although the real age of the child was unknown, he appeared to be very young, probably under seven, because in the sentence judges referred to a boy of very ‘tender age’ whose consent to the intercourse was doubtless absent. The term ‘consent’ was very unusual. In trials involving girls it never appeared. Probably, this widespread absence was justified by the fact that in courts children’s possible complicity to the crime stayed like a permanent spectre making the use of the term ‘consent’ dangerous; in this case the age of the child who had been sodomised by Giuseppe removed any doubt. Maybe, only very young ‘boys’ were regarded as totally innocent. Giuseppe was finally sentenced to ten years of *lavoro*

²⁷⁷ ASF, STG: Giornale di negozi, 10-37 (1786-1808)

²⁷⁸ ASF, STG: Giornale di negozi, 12 (trial n. 21).

pubblico; this was the harshest penalty pronounced by the *Supremo Tribunale di Giustizia*: the life imprisonment, as in the past, was never applied, not even in a case where the victim was a boy of very tender age. The other conviction also occurred in 1788, with the guilty party a young man named Piero, less than twenty-one years of age, and born and living in Florence. Piero was described as a youth ‘prone to sensuality’ and accused of having sodomised a six year-old boy who lived in the same house. Because the defendant was underage and ‘overflowing with *malizia*’, judges believed he had to be ‘corrected’ and, therefore, he was sentenced to eighteen lashes to be administered in private over the course of three days.²⁷⁹

The *Supremo Tribunale di Giustizia* dealt with another two cases of sodomy involving boys under twelve. Both ended with *atti sospesi*: in one trial the defendant categorically denied his guilt and the doctors could not come to agreement over the report; in the other trial, the man charged with sodomy was unknown.²⁸⁰

Therefore, from 1786 to 1808 the *Supremo Tribunale di Giustizia* dealt with five cases of sodomy involving children under twelve: three ended with a conviction and two with the *atti sospesi*; moreover, among the latter, one case could not be solved in any other manner, given the unknown identity of the defendant. Considering that in over 30 cases of rape of girls only five defendants were convicted, the fact that three out of five convictions were made in cases where boys had been the victim suggests – while not being statistically significant – that sodomy was regarded *de facto* as a more serious crime than heterosexual rape. Although it was not the harshest penalty, when the above mentioned Piero was convicted he was sentenced to ten years of *lavoro pubblico*; in the trials involving girls of ‘tender age’ there was no comparable punishment. Nevertheless, the paucity of cases of sodomy needs an explanation that I will try to provide at the end of this chapter.

²⁷⁹ ASF, STG: Giornale di negozi, 12 (trial n. 21).

²⁸⁰ ASF, STG: Giornale di negozi, p. 12 (trial n. 98), 23 (trial n. 153).

‘He would have very clear evidence of having suffered violence’: Giovanni and Luigi, 1811.

In 1811, when Tuscany was part of metropolitan France, the *Tribunale di Prima Istanza* dealt with a case of rape involving a boy who was very young: Luigi was only four years old; he lived in Florence, in Borgo San Frediano, with his brothers, his mother, a silk spooler, and his father, a farm labourer. The authorities knew about the rape from a medical report written by a surgeon working in the hospital of Santa Maria Nuova where Luigi was admitted with an infected anus. The child explained that this pain had been caused by a young boy, named Giovanni, who was a shoemaker. Every day Luigi went to the house of a widow, he called ‘granny’, where he learnt to read and write; according to his account, Giovanni visited his ‘school’ every afternoon at four when Luigi was left alone. Giovanni would take advantage of the absence of anyone else to ‘damage’ Luigi while pinning the younger boy to the ground.²⁸¹

Luigi’s parents denied knowing whether their son had already been *trattato* or *praticato*, namely ‘used’ in a sexual sense; they only knew Luigi was suffering from a pain that some witnesses defined as a ‘bad evil’ and someone else as an ‘innocuous infection’. The father added that he usually did not see Luigi during the day because he went out in the morning to earn a crust and he came back only late in the night to sleep. In the file of the trial there is no other deposition; it is possible to find only the medical report. As in the previous case, that of Giuseppe in 1797, Luigi was seen by the doctor Ottaviano Targioni Tozzetti and the surgeon Giuseppe Galletti. They asserted that the child was doubtless suffering from a medical complaint in his anus, but the cause was not external; they clearly affirmed: ‘we do not believe the boy has been ravished in the quoted part, because if a child so young had been assaulted, he would have very clear evidence of having suffered violence [...] it is very hard to express an opinion according to the ideas of Plenck.’ The German doctor Joseph Jacob Plenck has already been mentioned in the first chapter because Florentine doctors were aware of his thesis according to which

²⁸¹ ASF, TPIC: 37 (trial n. 1007).

girls' virginity had several signs apart from the condition of the hymen, such as the condition of their fraenum; the search for other proofs of virginity allowed doctors not to take an absolutely clear position during trials. With regard to sodomy, Plenck, in his work published at the end of the eighteenth century, wrote in a paragraph entitled 'signs of unnatural rape' that proofs of pederasty were fallacious because pains in the backside could be caused by a variety of infections and diseases.²⁸² Once again medical knowledge could be used to legitimate doctors' uncertainty. Nevertheless, from the report written about Luigi's body something more emerged: behind the difficulty of finding evidence of sodomy, the rape of a very young boy appeared to be improbable. They stated: 'If a child so young had been assaulted, he would have displayed very clear signs of having suffered violence.' Therefore, as with girls, the bodies of male children were penetrated with difficulty and their rape was improbable.

The medical report together with 'the incomplete and not categorical answers' given by the child in his deposition led judges to rule that there were no grounds for proceeding.

This case was the only trial for rape of a boy the *Tribunale di Prima Istanza* dealt with from 1808 to 1814.²⁸³ Why? Before answering this question, it should be underlined that at this time the law in force was the French penal code issued in 1810. Unlike the *Codice Leopoldino*, the sodomy no longer constituted a crime in its own right; nevertheless, for the first time rape was judged legally possible against both women and men. The French penal code, either that of 1791 or that of 1810, brooked no uncertainty; it expected that there should exist clear proof to establish guilt and innocence with no doubts. It might be possible that the necessity of providing such incontrovertible evidence discouraged child victims, both male and female, and their families from trying to bring charges of rape resulting in the almost complete absence of the crime from the courts. Nevertheless, because the sexual abuse of a boy

²⁸² G.J. PLENCK, *Elementi di medicina*, pp. 104-105.

²⁸³ ASF, TPIC: 82, Registro dei processi risolti dal Tribunale Correzionale dall'anno 1808 a tutto il dì 8 luglio 1814.

of necessity involved same-sex intercourse, which had for centuries been labelled as sodomy, ideas about sex between men need to be taken into account. In France until the end of the eighteenth century, sodomites were sentenced to the stake. Although rarely applied, this penalty showed how strict the legal judgement was with regard to this sexual practice.²⁸⁴ The penal code of 1791 and that of 1810 decriminalised sodomy. Nevertheless, this change should not be overestimated. Napoleon shared the idea according to which same-sex relationships stood for a violation of the natural law, but he believed that ‘scandal’ and ‘publicity’ given by trials to these affairs would have had worse effects than punishing them by promoting the bad example. In spite of this, homosexuality was always punished, but in a different way. The archives of police show an informal and arbitrary control over same-sex relationships, even when committed privately.²⁸⁵ Therefore, it might be possible that the same way of proceeding was transferred from France to Florence and sodomy, although in the shape of violence against a child or maybe above all in this repugnant form, was repressed outside the court. Unfortunately, it is not within the scope of my research to verify this thesis.

‘Natural modesty’, ‘reassuring frankness’:

Andrea and Vincenzo, 1829

In 1829 Vincenzo and Andrea were both employed to paint an uninhabited house located in Via Panicale in the centre of Florence. Vincenzo was aged seventeen, while Andrea was only seven years old. One day, Vincenzo obliged his younger co-worker to come with him into the bathroom where he sodomised him.²⁸⁶ Andrea described the sexual intercourse to officers of the law, stressing the violent nature of the assault: his shouts were heard by no one because Vincenzo put a rag on his mouth; then, he bent his knee into Andrea’s

²⁸⁴ M. REY, *Nascita di una minoranza*. In: G. DUBY, ed. *L’amore e la sessualità*. Bari: Edizioni Dedalo, 1994, pp. 331-337.

²⁸⁵ M. D. SIBALIS, *The regulation of male homosexuality in Revolutionary and Napoleonic France, 1789-1815*, in J. MERRICK, B. T. RAGAN, *Homosexuality in modern France*. New York-Oxford: Oxford University Press, 1996, pp. 80-101.

²⁸⁶ ASF, RC: 1766 (Trial n. 27).

lower back and finally he gave him a kick. The medical experts, as in the trials discussed above, did not take a clear stand. They certified the boy had been subjected to a violent assault, but they did not confirm the sexual aggression, in other words sodomy. Once again, the same terminology was used: Andrea had been penetrated by a solid object, possibly a penis. Nevertheless, in his deposition Andrea was really accurate in describing the sexual intercourse and the violence; moreover, as the judges wrote in the sentence, he showed 'natural modesty' together with 'reassuring frankness'. These two expressions were reminiscent of those used with regard to 'honest' girls who had to show 'shyness' together with 'bravery'. To support Andrea's account, there was also the testimony of a woman who visited the house in Via Panicale the day of the crime. Anna recounted she went to the house to supervise the two boys' work. Soon after she arrived, she saw Vincenzo with his trousers unfastened and intent on arranging his shirt. Then, she entered into the bathroom and she found Andrea leant against the wall wearing only his shirt, and with his trousers pulled down; his face was upset and frightened; his eyes were red as he had been crying. Anna asked Andrea what was going on, but the answer was 'nothing, nothing'. The woman, now suspicious, told the story to her husband who suggested she forget about the matter. The latter in the examination not only confirmed his wife's story, but added that he had often scolded Vincenzo for touching the younger boy's backside. The defendant as underage was sentenced to eight months of prison and to pay an indemnity to Andrea's family. The crime Vincenzo was charged with was that of sodomy because in 1829 the code in force was the *Codice Leopolino* that, unlike the French penal code, recognised this as a crime.

The court that dealt with this case was the *Ruota Criminale* that replaced the *Tribunale di Prima Istanza* in 1814 when the Habsburg-Lorraine dynasty was restored in the Grand Duchy of Tuscany. As shown in the first part of this work, this court from 1814 to 1838 addressed eleven cases of rape against girls under twelve and nearly all defendants were sentenced to penalties

harsher than those inflicted by the previous courts. With regard to sodomy involving children, the case of Andrea was the only one.²⁸⁷

Nevertheless, it is worth mentioning another case that involved a boy aged fifteen but who appeared to be younger.²⁸⁸ Indeed, either in the charge *ex-officio* written on 24 April 1821 or in the medical reports it was wrongly written that this boy named Giuseppe was twelve years old. This trial addressed by the *Ruota Criminale* in 1821 cast light on other ideas about childhood circulating in courts. At that time Giuseppe had been living in Florence, whither he had come from Livorno with his family, for only seven months. He lived in via Maggio in a building inhabited by people with different social status, as was very common in Florence. Among the inhabitants, there was a rich man, Nicola, aged 39, from the Papal States. In the afternoons, Nicola usually played the French guitar, and Giuseppe often visited his flat to listen at him. The latter recounted that on the 14 April Nicola tried to have sex with him; because he felt ashamed, he did not tell anyone anything until his mother found his shirt stained with blood. Doctors, both those who visited the boy accompanied by his father and those appointed by the court, were very ambiguous as was usual in other cases: lacerations in Giuseppe's anus were made by a solid body that might have been a penis; nevertheless, even if it had been a penis, the introduction was not complete. This last point was essential to define the crime. As in cases of violence against girls, the body was central and the partial penetration justified the fact the defendant was charged with the crime of attempted sodomy. Nicola's defence employed arguments that were reminiscent of those used by lawyers representing men accused of having raped girls. First, Giuseppe's family was impoverished and was trying to use the trial to obtain money from Nicola: 'in these imputations generally it is possible to find those laces the astute person lays towards the rich man in good faith.' Second, the defendant was 'a young man, well-educated and rich; if he had wished to indulge his libidinous whims, he would have had better fortune' with his serving woman. Third, 'the boy is the age when the *malizia* is

²⁸⁷ ASF, RC: 799, Specchietto della città di Firenze e sue adiacenze (1814-1838); registro sentenze, 1733, 1740, 1743, 1745, 1756-1775 (1814-1838).

²⁸⁸ ASF, RC: 199 (trial n. 8)

developed in men'; for this reason, he could damage his frenulum by himself. Last, but not least, the honesty of Nicola had been confirmed by several testimonies. Looking at depositions, this last point is doubtless true. All the witnesses, people living in the same building inhabited by Nicola and Giuseppe, recounted the former was a courteous man, while the boy was sometimes insolent. According to the owners of the whole building, Giuseppe was *malizioso* because he spoke like a man, he said things he should not say, and he butted into discussions he should not interfere. The defendant was always negative: 'all this seems to be a dream [...]. Probably, another person did these facts and a man of honour was accused'. The only witness that appeared to confirm the boy's narrative of events, risking her job by so-doing, was the woman who was close to both, and who was often present when Giuseppe visited Nicola's house: the defendant's servant. Nevertheless, she was a servant and, probably, her deposition was not considered of great account. Indeed, the verdict was left open.

To sum up, from 1786 to 1838, apart from the period 1808–1814, people accused of having sexually assaulted young boys were charged with the crime of sodomy. Trials for sodomy usually involved at least two persons and both were accused of having committed 'an act against nature'. Nevertheless, when one person was a child under twelve, only the adult party was charged with the crime. This means that, despite the fact the crime of violent rape against boys did not legally exist, the law and judges in courts took into account the age of boys who were regarded as unable to express their conscious consent to sex. This procedure of making distinctions among cases of sodomy with particular attention paid to children has already been stressed with regard to another time and place, namely in William Naphy's work on early modern Geneva.²⁸⁹ This constitutes yet another proof that childhood was not 'discovered' in the modern age.

²⁸⁹ W. NAPHY, Sodomy in early modern Geneva: various definitions, diverse verdict. In: T. BETTERIDGE, ed. *Sodomy in early modern Europe*. Manchester: Manchester University Press, 2002, pp. 94-110.

The *Codice Leopoldino* established harsher penalties for sodomy compared with those prescribed for people accused of the violent rape of girls, and the outcomes of the *Supremo Tribunale di Giustizia* from 1786 to 1808 seem to confirm that the former offence was regarded as more serious than the latter one: indeed, as I have already stressed, while of more than 30 men accused of having sexually assaulted young girls, only five defendants were convicted, in five cases of sodomy involving boys, three ended with guilty verdicts. Nevertheless, the number of trials is too small a sample to make certain assertions.

Behind sentences, the few cases addressed by courts from 1786 to 1838 show some features in common between trials for rape and those for sodomy when involving children under twelve. First, these stories of violence very often came out because of some form of sexually-transmitted disease or physical damage that required treatment. Second, doctors were very ambiguous or evasive in establishing the reasons of the illness: very often they wrote the child had been penetrated by a generic ‘solid object’. Last but not least, officers of the law tried to evaluate the sexual knowledge of boys with the aim of attesting their innocence or *malizia* and, during investigations, they always kept in mind the suspicion that boys like girls were prone to lie. The practice of trials called into question the idea of innocence linked to childhood that inspired the law.

As stressed on more than one occasion already, the main difference between trials for rape and those for sodomy was in the number: from 1786 to 1838 Florentine courts dealt with only seven cases of sodomy against boys under twelve. Places where these cases occurred, – the workplace, the ‘school’, and even the building where victim lived – seem to suggest that these stories were not exceptional incidents: they took place in familiar contexts; they were events that could happen in daily life. As a consequence, it is easy to believe that the number of cases reported to authorities did not reflect reality. How to explain the paucity of trials?

When I first approached the topic of sexual violence against boys under twelve, I expected I would find fewer trials compared to those involving girls because rapes of males were taken more seriously by the authorities and that, as a consequence, parents and officers of the law were less prone to make these stories public: masculinity and virility had to be safeguarded even with regard to children; the shame of victimhood had to be avoided. Nevertheless, secondary literature about sodomy has led me to pay attention to certain details of trials addressed by Florentine courts, with the result that my opinion has changed to the opposite: the paucity of cases testifies instead to the fact that relatives and officers of the law – if not the law – did not regard sodomy of boys as a major offence compared to the rape of girls.

Michael Rocke has pointed out that in renaissance Florence sodomy between men was a deep-rooted and prominent feature of life, even though it was publicly condemned and subjected to intensive persecution. Moreover, he shows same-sex intercourse usually occurred between an adolescent and a young man, or between a boy under twelve and an adolescent. This age-hierarchical pattern in homoerotic relations had been a constant in the Mediterranean regions since antiquity and it seems to have persisted throughout this area during the medieval and early modern periods.²⁹⁰ Rocke added that this kind of homoerotic relationship, although persecuted by law, was not so dishonourable for men; sodomy was not a synonym of homosexuality; it did not signify a sexual identity as at the end of the nineteenth century, but only a sexual custom that could be temporary and formative. In addition, men who had sex with young boys did not see their honour ‘in danger’ because boys were associated with the female sex.²⁹¹ Cristian Berco, who has studied sodomy in Spain during the Golden Age, goes further asserting that such sexual practices increased the perceived virility of adult men.²⁹² Other studies of the early modern age have emphasised that sodomy, although strictly condemned by law, was to a certain degree

²⁹⁰ M. ROCKE, *Forbidden friendships*, pp. 88-95. See also with regard to early-modern Venice, G. MARTINI, *Il “vitio nefando” nella Venezia del Seicento. Aspetti sociali e repressione di giustizia*. Roma: Jouvence, 1988.

²⁹¹ *IBID*, p. 13

²⁹² C. BERCO, Social control and its limits: sodomy, local sexual economies, and inquisitors during Spain's Golden Age. *The Sixteenth Century Journal*, 2005, 36 (2), 13.

accepted by society. For instance, Nicola Pizzolato's research on sodomy in Sicily in the sixteenth and seventeenth centuries underlines the degree to which this crime was object of a 'general indulgence' except for cases where the degree of violence was extreme.²⁹³ For the same period as studied by Pizzolato, Ugo Zuccarello looked at some trials for sodomy addressed by a court in Bologna, and detected a similar degree of tolerance; in addition, he stressed that parents were very diligent in reporting events of sexual violence against their daughters: the same zeal was not shown when the victims were their sons.²⁹⁴ Going to another context, namely Lutheran Frankfurt, Maria Boes states people was actually reluctant to stigmatise sodomy despite the fact that in law it was a major crime.²⁹⁵

This excursion into the early modern age is necessary because of the fact that trials addressed by Florentine courts at the beginning of the nineteenth century showed similarities with past centuries. First, the age-hierarchical pattern in homoerotic relations persisted: defendants accused of having sodomised boys under twelve were usually young men or adolescents. By contrast, girls were usually raped by older men. Second, the number of trials testifies to the degree to which parents were more prone to report girls' rapes than sexual violence against boys. After all, unlike girls, boys did not lose their virginity, which was so strictly connected to the honour of the family. Last but not least, some details linked to language suggested sodomy of boys was not taken by the population at large as seriously as it was in law. People did not use words such as 'sodomy' or 'sodomise', but verbs like 'to embrace', 'to bugger', and 'to deal with': the moral condemnation was less pronounced in these formulations. In the last trial I have described, that involving Giuseppe in 1821, his parents described what has gone on as a *bricconata*, 'skulduggery' or 'a dishonest trick' or 'a nasty prank'.²⁹⁶

²⁹³ N. PIZZOLATO, "Lo diavolo mi ingannao": la sodomia nelle campagne siciliane (1575–1664). *Quaderni storici*, 2006, 41 (2), 461.

²⁹⁴ U. ZUCCARELLO, La sodomia al tribunale bolognese del Torrione tra XVI e XVII secolo. *Società e storia*, 2000, 87, 48.

²⁹⁵ M. BOES, On trial for sodomy in early-modern Germany. In: BETTERIDGE, ed. *Sodomy in early modern Europe*, pp. 27-45.

²⁹⁶ ASF, RC: 199 (trial n. 8).

To conclude, I am not asserting that the general population of Florence supported relationships between boys and young men or adolescents. For instance, as already remarked, in Andrea's case in 1829, one of his neighbours visited the man later accused of sodomy and he scolded the latter for touching the younger boy's backside. What I am stating is that these episodes demonstrate a strong degree of continuity with past practices over several centuries at least. On the one hand, the law strictly condemned sodomy. On the other hand, while the population as a whole disapproved, it did not do so sufficiently to justify regular recourse to the authorities to resolve grievances and to seek redress: in other words, if a young man 'embraced' a boy, it was a *bricconata*. Nevertheless, as in the previous centuries, when the violence was extreme, the act was condemned and the perpetrator could find himself in court. In the aforementioned case involving Andrea, the boy was suffering from an 'inflammation of his nerves' and the violence he was subjected to aggravated his condition leading to his death: his parents reported the facts to authorities.²⁹⁷ In other words, early nineteenth-century Florentines appeared to be intolerant of violent sexual conduct towards boys, but otherwise they were reasonably indulgent of such activities, as their early modern ancestors had been before them.

²⁹⁷ ASF, RC: 1766 (Trial n. 27).

Chapter V

The admissibility of boys' rape

'He had been punished for giving a slap to one of his superiors': Andrea and Raffaele, 1865

In 1865 Andrea was a boy aged eleven, the son of a couple of *insegnanti venturieri*,²⁹⁸ who worked as assistant in a barber's. In June he was admitted to the hospital of Santa Maria Nuova because of a blister in his anus. Doctors wrote a report by which they stated the boy was infected with a venereal disease, which they sent to the police station of Santa Croce. Officers of the law visited Andrea in the hospital where he told them that he had been sexually assaulted by a man Andrea's family had hosted in their house for some days in via Contenti in Florence. This case was finally addressed by the *Tribunale Collegiale di Prima Istanza*.²⁹⁹

The *Tribunale Collegiale di Prima Istanza* was established with the Criminal Reform promulgated in 1838. Its jurisdiction covered crimes that occurred in Florence and surrounding neighbourhoods and in the *Regio Commissariato* di Volterra. From 1838 to 1853 this court applied the *Codice Leopoldino*; from 1853 a new penal code came into force. The new legal code regulated cases of sexual assault of boys differently from the *Codice Leopoldino*. The crime of sodomy disappeared, while the crime of *violenza carnale* was defined as possible against both women and men. It should be underlined that the only pre-unification codes that contemplated the rape of a man were the *Codice per il Regno delle due Sicilie* (1819) and the *Codice Penale per gli Stati di Parma e Piacenza* (1820). As in the previous Tuscan codes, in the penal code enacted in 1853 violence was taken for granted when the injured party was under twelve. Moreover, the penalty was supposed to be harsher when the victim was a male. Article 281 prescribed that *violenza*

²⁹⁸ *Insegnanti venturieri* means teachers without a regular contract or fixed position.

²⁹⁹ ASF, TCPI: 3423 (Trial n. 855).

carnale had to be punished with imprisonment from four to eight years when committed against an unmarried woman, and from six to twelve years when the injured party was a man. Therefore, from 1853 onwards, sexual assaults against boys under twelve were no longer labelled as cases of sodomy, but as cases of *violenza carnale* or *atti di libidine*.

Consequently, Raffaele, the man accused of having sodomised Andrea in 1865, was charged with *violenza carnale*. Andrea was eleven years old and, therefore, the violence was taken for granted. The boy was examined twice. In his depositions he used an accurate language for genitals and he demonstrated that he was fully aware of what he suffered; he even resorted to the verb ‘sodomise’ and to the word *libidine*:

I was brought to this hospital on 12 June of this year because of a blister developed in my anus in consequence of having slept with a certain Raffaele whose surname I don’t know, the errand boy for the butcher, who has a shop next to the Macine (an area of Florence), who is his uncle, who asked my father if he could please sleep in my house, who – having had this granted to him –, lay down in my bed and started to play around with me, and tried to sodomise me; the first time I escaped from the bed, but the second time he held me down and satisfied his lusts [*libidine*], and I then began to feel pain in my anus and started to cry, and he leaving me, said to me Gosh, how many boys in Florence refuse [to have sex].

What should be stressed is that, in contrast with what occurred in other trials for sodomy in the past and with those for rapes of girls, in this case the knowing child was not accused of being *malizioso*. Nevertheless, the old-fashioned suspicion that a child could lie persisted. Anna, the servant of Andrea’s family, and Angela, a teacher living in the same building as the latter, were asked by officers of the law if they had doubts about the boy’s honesty; the answers were: ‘the child is not a liar by nature’ and ‘does not seem to me to be capable of lying.’ After having verified whether or not Andrea was in the habit of lying, investigations were focused on the defendant. In theory, this should have been the norm, but the widespread notion that charges of rape

were often false and were designed to gain financial compensation induced authorities to pay more attention to the injured party. Conversely, in this trial witnesses were interrogated above all about the defendant. In this case the defendant was Raffaele, 25 years old, unmarried, and working as a butcher's boy in Florence. He had already been in prison for five years because he slapped a sergeant's face when serving as a soldier in 1859. He often frequented brothels and some prostitutes testified that they refused to have sex with him because his genitals were covered with sores. Doctors too confirmed that he was suffering from a variety of venereal diseases. Fortunata, a young woman aged twenty-three, working as prostitute in a brothel (casino) in via Malpaganti, recounted:

I know Raffaello because I am from the same village, or rather because I used to see him at Dicomano [just outside Florence] until he left for military service, and I knew that he had been punished for giving a slap to one of his superiors. And from when I started working in the brothel, he came twice, once during Carneval and once during Lent, always patronising me [...] And I know that while I was in hospital for problems with one of my legs, he tried to pay for sex with Giovanna F., who is in the aforementioned brothel [...]

Both prostitutes, Fortunata and Giovanna, were also asked if they knew whether Raffaele was given to sodomy or pederasty. Investigations and questions reveal the way in which the authorities were trying to ascertain the character and habits of Raffaele.

In the second half of the nineteenth century, the changing nature of men's work, the rise of the white-collar service sector, the reduction in the birth rate, and women's entry into higher education and the professions, led western countries' middle-classes to re-shape normative manhood. As George Mosse has pointed out, aristocratic stereotypes, such as duelling, slowly disappeared and the body and not its adornments, became the chief signifier of manliness. The masculine body was largely defined through allusion to Greek principles of harmony, proportion, and control. Emphasis on health gave

medicine a pre-eminent role in the construction of the ideal masculinity. Self-control meant the ability to rule personal sexual desires, especially when they were not manifest within marriage and not directed to reproduction. This is why masturbation, or onanism, and homosexual practices were strictly condemned.³⁰⁰ Traits of what Raewyn Connell defined as 'hegemonic masculinity' were: whiteness, well-being, rationality, and heterosexuality.³⁰¹ The ideal man who possessed these characteristics corresponded to the exemplary citizen; indeed, the process of re-defining masculinity was strictly connected to building the nation. The man who neglected his health and led himself to be dominated by his own passions was regarded as a threat to the entire society.³⁰² Despite differences, in the second half of the nineteenth century the new normative manhood was supported by doctors, sexologists, magistrates and sex reformers in France, England and Germany.³⁰³ Italy at that time had not a bourgeois class comparable to that present in these countries not least because Italy's industrial revolution did not take place until the beginning of the twentieth century. Nevertheless, as Raffaele Romanelli has underlined, at least the regions of central and northern Italy had never experienced a truly 'feudal' *ancien régime* and the nobility constituted a constantly shifting social and economic category; there were noble titles of widely different types, ranging from those that were genuinely feudal to others that were urban or municipal in origin and were not necessarily connected to either wealth or property. As a result, it really makes better sense to refer to *patriciates* [patricians] rather than feudal nobility. In Tuscany the ruling elite was better defined in relation to landed wealth.³⁰⁴ Given the absence of an extensive bourgeois class, it was the patricians who made up Italian governments in the second half of the nineteenth century (of whom many were Tuscans, reflecting

³⁰⁰ G. L. MOSSE, *Nationalism and sexuality*. G. L. MOSSE, *The image of man: the creation of modern masculinity*. Oxford: Oxford University Press, 1996.

³⁰¹ R. W. CONNELL, *Gender and power: society, the person and sexual politics*. Cambridge: Polity Press, 1987. See also J. KATZ, *The invention of heterosexuality*. New York: Dutton, 1995.

³⁰² G. L. MOSSE, *Nationalism and sexuality*, p. 20.

³⁰³ G. MOSSE, *The image of man*. M. ROPER, J. TOSH, *Manful assertions: masculinities in Britain since 1800*. London: Routledge, 1991. J. TOSH, What should historian do with masculinity? Reflections on nineteenth-century Britain. *History Workshop Journal*, 1994, 38, 179-202. R. A. NYE, *Masculinity and male codes of honor in modern France*. New York: Oxford University Press, 1993.

³⁰⁴ R. ROMANELLI, Urban patricians and 'bourgeois' society: a study of wealthy elites in Florence, 1862-1904. *Journal of Modern Italian Studies*, I, 1995, pp. 3-21.

both the prominence of the region's patrician class within the political system, and Florence's status as capital from 1865 to 1870).³⁰⁵ These governments were, as their European counterparts, occupied in the building of the nation. In the 'making of Italians', Italy's rulers were not free from influences coming from abroad. As Bruno Wanroij has stressed, the makers of unification, although secular and liberal, very soon started working hard in order to establish and safeguard a moral order. On 17 April 1865 Giovanni Lanza, Minister of the Interior at the start of Alfonso La Marmora's second ministry, sent a proclamation to all the prefects of the Kingdom by which he ordered them to battle diligently against the dissemination of indecent publications.³⁰⁶ As in other western countries, nationalism and respectability became tightly connected to each other. For the same reason, prostitution also started to be regulated by state.³⁰⁷ Presumably, courts became a preferential place where the morality to which governments aspired was fixed and imposed on the citizenry. Obviously, this process should not have been so elementary and without resistance coming from the bottom. With regard to the late nineteenth century in Italy, Mark Seymour, for example, has shown how many married couples got separated despite the law that made divorce illegal.³⁰⁸ Nevertheless, the attempt to establish a 'national morality' is very clearly evident in the practice in courts. In Florence, for instance, the *Tribunale collegiale di Prima Istanza* dealt with some trials of defendants who were charged with masturbation.³⁰⁹ The term 'morality' refers not only to sexual behaviour, but also to the general conduct expected of men, women and children: gender and ages were always under scrutiny during trials. As for men, Mark Seymour has analysed in detail a trial occurring in Rome in 1878 that clearly disclosed how judges and even journalists tried to impose a specific model of masculinity.³¹⁰ The latter had to

³⁰⁵ S. SOLDANI, I moderati toscani dalla Restaurazione alla caduta della Destra storica. In: IRPET, *Lezioni di storia toscana*. Firenze: Le Monnier, 1981, pp. 83-84.

³⁰⁶ WANROOIJ, *Storia del pudore*, p. 21.

³⁰⁷ M. TURNO, *Il malo esempio*. M. GIBSON, *Prostitution and the state*. It should be stressed that prostitution had been regulated in some Italian states prior to unification. See S. HUGHES, *Crime, disorder, and the Risorgimento: the politics of policing in Bologna*. Cambridge: Cambridge University Press, 1994, p.75.

³⁰⁸ M. SEYMOUR, *Debating divorce in Italy: marriage and the making of modern Italians, 1860-1974*, Basingstoke: Palgrave Macmillan, 2007, pp. 51-54, 65-69.

³⁰⁹ ASF, TCPI: 2460 (Trial n. 149); 2463 (Trial n. 186).

³¹⁰ M. SEYMOUR, Contesting masculinity in Post-Unification Italy: the murder of Captain Giovanni Fadda. *Gender & History*, 2013, 25 (2), 252-269.

deal with a hand-to-hand fight that resulted in the death of Captain Giovanna Fadda, an officer of the Italian army, remembered for his bravery and his spirit of sacrifice in battle and for being a devoted husband. The murderer was Pietro Cardinali, a stunt horseman and mounted acrobat in a small circus, depicted as a 'part-time Casanova' because of his dissolute private life: Cardinali had had relationships with several women across Italy. Indeed, the cause of the fight was a love affair between Cardinali and Fadda's wife, Raffaella. In court prosecuting lawyers went far beyond the duty of proving Cardinali's guilt and they took the opportunity to show that the murderer represented a sort of manhood that was threatening to the new nation and totally undesirable in Italy. From investigations it came out that Raffaella lived far from her husband; Fadda was in Rome, while his wife was living in his native house in Calabria. In addition, during the trial it was suggested the Captain was not able to satisfy his wife sexually because of wounds he received fighting for the nation. Therefore, Raffaella had chosen the unbridled virility of Cardinali over restrained respectability; she had chosen the attractive acrobat over her national hero husband: this was the wrong choice. The woman was regarded as both accomplice and the instigator of Fadda's murder. She was sentenced to hard labour for life, while her lover received the death sentence. Captain Fadda embodied the traits of the ideal Italian man: honesty, bravery, discipline and loyalty. As Lucy Riall has shown, Italians were charged by foreigners with being effeminate, fearful and cowardly in battle. These unflattering representations were to some extent internalised leading governments to emphasize the image of the brave soldier. As a consequence, war provided a means of realizing a 're-virilized' Italy.³¹¹ This would be true for a long time; even the First World War and the colonization would be presented to Italians as historical moments that could be helpful to men in order to re-discover their authentic masculinity.³¹² Therefore, violence and bellicosity were essential parts of the ideal Italian man. Nevertheless, their use was officially justified only in two cases. On the one hand, when men fought for Italy; on the other

³¹¹ L. RIALL, Men at war: masculinity and military ideals in the Risorgimento. In: S. PATRIARCA, L. RIALL, ed. *The Risorgimento revisited: nationalism and culture in nineteenth-century Italy*. Basingstoke and New York: Palgrave Macmillan, 2012, pp. 152–70.

³¹² G. STEFANI, *Colonia per maschi: italiani in Africa orientale, una storia di genere*. Verona: Ombre Corte, 2007.

hand, when they tried to safeguard or fix their family's honour, which coincided with the national honour. The attempt of saving honour would be for a long time a legal justification in courts for several crimes committed by men. For instance, the so-called *delitto d'onore*, the murder of his own wife's lover was understood and excused by law till 1981. As Steven C. Hughes has written it was no coincidence that the duel, an inheritance from the *ancien régime*, would survive in Italy longer than in other western countries.³¹³ To sum up, the ideal Italian man should have been honest, disciplined, brave, sexually self-controlled and violent, when necessary, in the name of the family and the family-Nation.

Why have I gone so far beyond the trial that I introduced at the start of this chapter? The reason is simply that a digression about masculinity was required to understand my argument about sentences pronounced by the *Tribunale Collegiale di Prima Istanza*. As written with regard to girls, the impression is that the definition of the final crime with which the defendants were charged depended not on the consequences the rape had on girls (virginity/loss of virginity), but on the way the man acted (penetration/not penetration; penetration with penis/with something else) and even on the man's intentions (sexual desire or other forces). Why was the crime defined by the masculine perpetrator? Probably, because the real aim, as McLaren states, was not to protect women or children, but to regulate and discipline men's sexual behaviour.³¹⁴ This seems to be true at least in the middle of the nineteenth century in the Florentine court *Tribunale Collegiale di Prima Istanza*.

Moreover, this intention was particularly clear in the case with which I began the chapter. Investigations were focused on the defendant, Raffaele, with the clear aim of understanding what kind of man he was. The image that came out did not correspond to the ideal man at all. Let me recap: Raffaele was 25, he was unmarried and accustomed to frequent brothels, he suffered from venereal diseases and he was known by authorities for having been totally

³¹³ S. C. HUGHES, *Politics of the sword: dueling, honor, and masculinity in Modern Italy*. Columbus, OH: Ohio State University Press, 2007.

³¹⁴ A. McLAREN, *The trials of masculinity: policing sexual boundaries, 1870-1930*. Chicago, US: University of Chicago Press, 2008, p. 7.

undisciplined while fighting for Italian independence. In the new-born Italy and above all in his capital, that in 1865 was Florence, men like Raffaele – wanting in discipline, lascivious, ill – were regarded as a threat to the whole society. Not unsurprisingly, he was sentenced to one year of prison.

Nevertheless, one year of prison was not a harsh penalty. How to explain this outcome? Raffaele was not accused of *violenza carnale*, but of having attempted it.

The *Tribunale Collegiale di Prima Istanza* from 1838 to 1865 dealt with twelve cases of men accused of having sexually assaulted boys under twelve and not one ended with a sentence for sodomy (when the *Codice leopoldino* was in force) or *violenza carnale* (from 1853 onwards).³¹⁵ Apart from two cases that ended with an acquittal, all trials resulted in a conviction of the defendant for *mollizie* or *atti di libidine* or for attempted sodomy or attempted *violenza carnale*. As stressed in the second chapter, this kind of outcomes was the norm even in trials involving girls. With reference to the latter, as I have already written, doctors believed that penetrating young girls' bodies was improbable. As for boys, I have stressed in the previous chapter how, according to the medical knowledge of the time, the bodies of male children were penetrated only with difficulty. Therefore, the crime of *violenza carnale* against children under twelve, either girls or boys, seems to be improbable to the authorities until the middle of the nineteenth century. In addition, although the law prescribed harsher penalties for people accused of having sexually assaulted boys, sentences were very similar to those pronounced in cases involving girls. In practice, sodomy was not regarded as more serious than rape of girls. I resorted to the term 'sodomy' because, although the law since 1853 had abolished this crime, the language used in the *Tribunale Collegiale di Prima Istanza* by judges, lawyers, defendants and accusers persisted to be linked to 'sodomy' and, as pointed out in the previous chapter, the latter, although strictly condemned by law, in practice was not so repugnant for the population at large.

³¹⁵ ASF, TCPI: 2388-2425 (1838-1849), 2453-2502 (1856-1865), Protocolli per il turno decidente criminale del Tribunale di I Istanza di Firenze. 2426-2452 (1850-1855) are lost.

To conclude, documents of the *Tribunale Collegiale di Prima Istanza* show many more similarities than differences between trials involving girls and those involving boys. Nevertheless, this fact does not reveal that officers of the law and judges did not pay attention to the gender of children; this fact shows that in the middle of the century they were more focused on men and their masculinity rather than on victims.

‘He introduced his *vergogna* into my arse’:

Franceschini Oreste (1894-1902)

Oreste was a widower aged 46, born and living in Florence in via Fiesolana, close to the Borgo Santa Croce. He officially was an upholsterer, but he was accustomed to do several casual jobs to live. For instance, on 7 July 1894 he was appointed to deliver the suitcases of some performers to the theatre-garden Alhambra, a place dedicated to entertainment, located in the current Piazza Beccaria. While he was on the street carrying these bags, he met a woman with a young boy aged nine and called Silvio. As Oreste needed help, he asked the woman whether her child could assist him. The mother accepted and she pleaded with Oreste to let Silvio earn some money. Therefore, the man and the boy left the woman and they proceeded together. They delivered luggage and then they went to a restaurant to have lunch. Afterwards, as they were tired, they went to Oreste’s house to have some rest. What occurred in that house was recounted very differently by the man and by the boy. The former said they just slept for a while, while the latter described an act of sexual aggression: ‘he invited me to sleep saying to me I needed to sleep because I was tired. Indeed, I fell asleep, but soon afterwards I woke up feeling he was touching me. Oreste told me: “be quiet, do not be scared”’; he put me down on my knees with my head bent and he introduced his *vergogna*³¹⁶ into my arse

³¹⁶ *Vergogna* literally means ‘shame’, but here it was a term to indicate ‘penis’.

making me suffer a great pain. While he was doing these things, he said to me “you are very beautiful” and he held me very closely.’³¹⁷

Silvio, like Andrea, the protagonist of the story told in the previous part of this chapter, described the violence in detail. Ettore, a child aged ten, who had been sexually assaulted in 1874 on a small boat in the river Arno by a young man, also reported the aggression scrupulously to the officers of the law:

A little after twentyfour in the evening a so-named Tonino nicknamed Cenciaiolo, an oarsman [...] invited me to jump into his boat, I accepted [...] he started to ask me whether I did [would do] naughty things, and I replied all the time in the negative. However, not having succeeded in taking me, he then began to threaten me, saying that he would beat me and throw me in the Arno if I did not consent to do that which he wanted. Meanwhile, he forced me to go beneath the stern and there he took out his shaft and made me pull down my trousers, opened my anus with his finger, and afterwards immediately penetrated me with it with force.³¹⁸

Girls were not so precise in describing rapes because they had to display and demonstrate that they were ‘innocent’, which, as has already been remarked, meant that they lacked sexual knowledge and were embarrassed to discuss sexual acts. Trials addressed by Florentine courts in the second half of the nineteenth century reveal that expectations of ignorance about sex were less applicable to boys: they were not accused of being *maliziosi* because they did not display embarrassment or because they used an accurate language and were aware of what had happened to them.

To return to Silvio. Having been assaulted by Oreste, the child went back home at 4 pm. When he saw his mother, he started crying and told her what had occurred. The woman immediately summoned her husband, who was a manual labourer, and the couple brought their child to a doctor who confirmed a possible violence as Silvio’s backside was inflamed. Contrary to

³¹⁷ ASF, PA: 1895. b. 1564, I. f. 2.

³¹⁸ ASF, PA: 1876, b.778, f. 1924.

what usually occurred in the past and to what very often emerged from trials involving girls, in the second half of the nineteenth century doctors appointed to write reports about abused boys appeared to be less ambiguous and more likely to declare that the child had been a victim of violence. For instance, in 1874 the doctor Pietro Pellizzari, working in the Hospital Santa Maria Nuova, who saw the above-mentioned Ettore, wrote without hesitation that ‘the boy had been subject to acts of pederasty.’³¹⁹ In another trial, dated 1902, a boy, allegedly sexually assaulted by two farmers in a small village close to Florence, Calenzano, was seen twice by doctors. First, they wrote he showed traces of violence on the body. Two months later, they stated the boy was in perfect health. Nevertheless, they added they could not exclude the violence with certainty because traces of it could have disappeared in the time that had elapsed since the alleged rape.³²⁰ Doctors appeared now to be more protective towards boys than girls.

After the medical examination, Silvio’s father went to the police station of Santa Croce and he charged Oreste with *violenza carnale*. Afterwards, the trial was addressed by the *Corte d’Assise*. The latter had replaced the *Tribunale Collegiale di Prima Istanza* in 1866. Until 1890 the Florentine *Corte d’Assise* applied the Tuscan penal code, while from 1890 onwards the new Italian Penal code known as *Codice Zanardelli* came into effect. Consequently, when Silvio’s story came to court, the latter had already been in force for a several years.

The *Codice Zanardelli*, like the French and the Tuscan penal code, did not mention the crime of sodomy and instead used the term *violenza carnale* with reference to both sexes. At that time sodomy persisted to be a crime in other western countries such as Britain, Germany, and Hungary. One member of the commission preparing the Italian code was Francesco Carrara, the Tuscan jurist regarded as the founder of the Liberal orientation in Italian law. His thought, well expressed in his major work *Programma del corso di diritto criminale*, the first volume of which was published in 1859 is useful in

³¹⁹ ASF, PA: 1876, b. 778, f. 1924.

³²⁰ ASF, PA: 1902, b. 2240, I; f. 5.

understanding the new code. Francesco Carrara believed sexual acts, even when morally reprehensible, should have been punished only when they injured another subject: a person, a family, or the whole society. Otherwise, justice conflated and confused the sin with the crime. As a result, sodomy should not be punished by law when it involved consenting adults and when it was committed privately. Nevertheless, the intent of moralising was not totally absent from the decisions made by liberal legislators. Carrara wrote that from the political perspective, it was not useful to elevate these immoral acts to crimes because the publicity of a trial and its sentence would have been more dangerous than the total impunity.³²¹ The same idea, the beneficial effect of the ‘unawareness of the vice’, was expressed by the minister Zanardelli.³²² Nevertheless, as stressed by Alessandro Scurti in his doctoral thesis, same-sex relationships were still punished by resorting to other crimes, like *violenza carnale*, and it would be naïve to think that the crime ‘against nature’ totally disappeared in law.³²³ Francesco Carrara wrote that sexual violence when it included pederasty was a major offence because of the *nefandezza*, in other words because of its blasphemous (or nefarious or infamous) nature.³²⁴

Oreste in 1894 was charged with *violenza carnale* against a boy under twelve, but the fact he was a pederast clearly emerged from the documents. During investigations, a lot of the defendant’s neighbours, living in via Fiesolana, in the heart of the town, were examined. No one could confirm what happened on 7 July, but all of them testified that the man was accustomed to enter his house with young boys. In addition, a friend of Silvio, the little Ugo testified that children knew this man usually ‘made boys suffer down below’. Doubtless, Oreste appeared to be guilty. Nevertheless, on 26 January 1895 he was absolved. The complete sentence has not been preserved and, for this reason, it is hard to explain this outcome, but the story of Oreste is not yet finished.

³²¹ F. CARRARA, *Programma del corso di diritto criminale. Parte speciale*. II. Lucca: Giusti, 1868, p. 199.

³²² A. SCURTI, *L’emancipazione repressiva. L’omosessualità maschile nell’Italia liberale: legislazione, riflessione giuridica e giurisprudenza, 1860-1900*. Tesi di Dottorato, Università degli Studi di Napoli Federico II, 2008, p. 177.

³²³ *IBID*, p. 246.

³²⁴ CARRARA, *Programma del corso*, p. 277.

Six years later, in 1901, Guido, a boy aged ten, was admitted to the hospital Santa Maria Nuova because of syphilitic plaques in his anus. He recounted that he had been infected by a man living very close to his house in via Rosa, near to the Basilica di Santa Croce. More than once this man persuaded the boy with money to go to where he lived and to have sex. On the 13 August 1901 Guido's parents went to the police station of Santa Croce and they charged the man with *violenza carnale*. The name of the defendant was Oreste; he was an upholsterer aged 52. Neighbours of Guido and Oreste knew the sexual habits of the latter. Contrary to what occurred in the story dated 1829 and described in the previous chapter, parents of the boy were warned to be careful. The solution of this case was totally different from the outcome of the trial addressed in 1894. Judges did not stress the boy frequented Oreste's house several times voluntarily and they only applied the law: sex with a child under twelve was regarded as *violenza carnale* even when there was no sign of physical violence. Consequently, Oreste was condemned to nine years of prison.³²⁵

This last sentence was in line with the other sentences the *Corte d'Assise* pronounced from 1866 to 1914. Over this period the Florentine court dealt with 22 cases of sexually assaulted boys and only three ended with an acquittal.³²⁶ This fact shows that in the second half of the nineteenth century judges became stricter not only towards men accused of having raped girls but also towards defendants charged with *violenza carnale* against boys. This major intolerance for sexual violence against children, included both boys and girls, has been detected also in other countries in this period.³²⁷ Like girls, boys were regarded as the future citizens of the nation and, for this reason, they had to be protected. The treatment of boys and girls was similar not just in terms of

³²⁵ ASF, PA: 1902, b. 2240, II. f. 14.

³²⁶ ASF, Corte d'assise di Firenze: registri generali, 1-16 (1866-1914).

³²⁷ ROBERTSON, *Crimes against children*, pp- 69-70. J. A. T. BRETON, Los excesos del deseo. Incontinencia y violencia sexual contra niños y jóvenes en Jalisco, 1885-1911. *Relaciones*, 2011, XXXII (127), 153-194. S. COOK, *Containing a contagion: crime and homosexuality in post-revolutionary Mexico City*. Master of Arts, The University of California, San Diego, 2008, p. 53. C. BERCO, Silencing the unmentionable: non-reproductive sex and the creation of a civilized Argentina, 1860-1900. *The Americas*, 2002, 58 (3), 439.

the punishments, but also for the fact that those who were punished were punished for *violenza carnale* and not for *atti di libidine*.

In the second half of the nineteenth century the number of cases of sexually abused boys reported to justice increased. Nevertheless, the number was, as in the previous decades, inferior to the cases denouncing to authorities and involving girls.³²⁸ It is possible that girls' rapes were just more usual in reality, but can we suppose that there was still a certain degree of tolerance towards pederasty within the population (as I explained in the previous chapter)? Indeed, from studying trials dealt with by the *Corte d'Assise* it is clear that key features of pederasty had changed little since the beginning of the century (and as I have already stressed they had distant roots). Boys were still sexually assaulted by young men and often the aggression occurred in the place where the children worked as there was 'normal' for a master or a young co-worker 'using' boys they supervised also to satisfy their sexual needs. Nevertheless, charges increased in the second half of the century and, with the *Corte d'Assise*, defendants were no longer accused of *atti di libidine*, but of *violenza carnale*: as for girls, the rape of boys became a reality in court. Judges, as I have already showed in the third chapter, were probably conditioned in formulating sentences by the national speeches about childhood as the main source of the nation. Nevertheless, there is something that goes beyond this.

As I have early asserted, in cases of sexually abused boys investigations were focused on the defendants, not on the injured parties as for girls. This can be explained by the fact that fewer prejudices were shown towards boys: they were believed prone to lie, but unlike girls their sexual knowledge was no longer regarded as a proof of *malizia*, which rendered them guilty. Or it can be explained by the judges' intention of constructing within their courtrooms the 'ideal man', who was honest, disciplined, brave, self-

³²⁸ What occurred in Rome appears to have been somewhat different. Domenico Rizzo stressed that at the end of the nineteenth century both boys' and girls' rape were reported to justice without any significant difference in number. RIZZO, *Gli spazi della morale*, p. 73.

controlled and doubtless heterosexual:³²⁹ in other words, having sex with boy was no longer, at least for judges, ‘a nasty prank’.

³²⁹ The term ‘homosexual’ does not appear in trials I have examined and this work is not about the history of homosexuality. Nevertheless, it should be underlined that right in this period the old concept of sodomy was being replaced by the new medical idea of homosexuality. Authorities in forensic medicine like Ludwing Casper in Berlin and August Ambroise Tardieu in Paris published their remarks about some men they defined ‘pederasts’. Afterwards, the article about ‘the contrary sexual feeling’ published in 1869 by the German neurologist Karl Westphal captured the attention of a large number of researchers that started studying homosexuality. Westphal wrote that article after having been consulted in a trial addressed by the court of Berlin: he had to express his opinion about a man of the German army accused of having raped a little boy aged five. The doctor focused his attention not on the fact that an adult man had sex with a child, but on the homosexual relationship defining this desire ‘an inborn sickness’. (H. KENNEDY, *The life and works of Karl Heinrich Ulrichs, pioneer of the modern gay movement*. Boston: Alyson, 1988, pp. 74-169). Moreover, in 1869 the term ‘homosexual’ was used for the first time by a Hungarian writer-journalist, Karoly Maria Kertbeny, in an anonymous report calling for the abolition of criminal laws on “unnatural acts,” addressed to Dr. Leonhardt, Prussian Minister of Justice. Even if it took several decades before the term stuck, this date, for many historians, marks a turning point, clearly distinguishing the sodomite (who offended God) and the homosexual (who offended society). (F. TAMAGNE, *History of homosexuality in Europe, Berlin, London, Paris, 1919-1939*. New York, US: Algora Publishing, 2007, pp. 13-14).

Part III

Incest

Fathers are supposed to love their daughters, but to what extent? What happens when this 'love' leads them to have sex with their own daughters?

Father-daughter incest is doubtless a 'trope' in mythology, folklore and fiction. Just two examples: in classical mythology Mirra, having totally fallen in love with her father, misled him about her identity in order to have sex with him; Lot's daughter in the Old Testament made their father get drunk to have sex with him. It goes without saying that the most popular novel on father-daughter – albeit that of an adoptive father – incest is *Lolita* written by Vladimir Nabokov in 1955. Basically, the main character of this novel, Humbert, tried to defend himself for having had sex with his adoptive daughter showing how Lolita, described as a nymph, had seduced him. I have been struck by watching an Italian movie released in 1978, *Così come sei* (Stay as you are), with the very popular Marcello Mastroianni as main character, which played a father-daughter incest story and also here, as in *Lolita*, the girl has been depicted as the one really responsible for the sexual relationship. Luckily, the image of the incestuous daughter as 'guilty' for being sexually abused by her father is changing in fiction. It is no longer present in *La Bestia nel Cuore*, a novel written by Cristina Comencini that is also a movie, and Pedro Almodovar's *Volver*. The question is: is father-daughter incest only a trope or also a social reality? And is the stereotype of the seducing daughter widespread also in society?

Historical studies can answer this question. Nevertheless, so far historians have neglected the topic. Apart from Lynn Sacco's *Father-daughter incest in American history* published in 2009, there is no book, and consequently no systematic research, on father-daughter incest.³³⁰ Supposedly, it is not a coincidence that the first systematic historical research on the topic was conducted in the same country that was the first among all Western countries, to see a book published, authored by two clinicians, on father-daughter incest. At the end of 1970s Judith Lewis Hermann and Lisa Hirshman decided to introduce their work by recounting how they met: 'this book began

³³⁰ L. SACCO, *Unspeakable: father-daughter incest in American history*. Baltimore, Md: Johns Hopkins University Press, 2009.

with two women talking to each other [...] In the course of these meetings, we discovered that both of us had seen what seemed like an alarming number of women with a history of incest. We were disturbed both by our patients' complaints and by the way these complaints had been ignored by more experienced clinicians.'³³¹ It is self-evident that incest has been a taboo among researchers in general for a long time. With regard to historians, apart from Sacco's book, there are very few articles that focus entirely on incest and some pages on it within monographs about sex crimes or other more general topic. While I will cite later these works, I want to mention immediately the one Italian historian who has tried to call the attention on incest: Patrizia Guarnieri. She wrote two articles on the topic: one in Italian and one in English.³³² Both discussed mentality and law relating to incest in Liberal Italy.

During my research, I have also looked for incest trials. As I was interested in investigating sexual violence against children, I paid attention only on cases of incest between *ascendenti* and *discendenti* relatives, namely between relatives whose power was unequal, and in which one party 'should' have the responsibility to care for the other, and on stories of incest between collateral relatives when they were less than twelve years of age. From 1786 to 1914 Florentine courts addressed 28 incest cases with these features.³³³ I have started this part of my thesis with a digression about father-daughter incest because the majority of trials tell stories of this kind of relationship. In addition, as I have already stressed in the introduction, I have also looked at trials involving girls older than twelve because often incest was a long-standing relationship.

I have chosen to deal with this topic separately because, as for boys, the law was to some extent different. I wrote 'to some extent' because in the second half of the century, although the law in force contemplated the crime of

³³¹ J. L. HERMAN, L. HIRSHMAN, *Father-daughter incest*. Cambridge, Mass.: Harvard University Press, 1981, p. vii.

³³² P. GUARNIERI, L'incesto scandaloso: legge e mentalità nell'Italia unita. *Passato e presente*, 2003, 58, 45-68. P. GUARNIERI, "Dangerous girls", family secrets and incest law in Italy, 1861-1930. *International Journal of law and psychiatry*, 1998, 21 (4), 369-383.

³³³ See Chart 1, p. 192.

‘incest’, the *Corte d’Assise* usually charged defendants with *violenza carnale* and I will explain why.

The topic is developed in two chapters because in the middle of the century there was a turning-point that I shall describe. There is no case that occurred during the French domination. The French penal code decriminalised incest, but it established a harsh penalty, namely forced labour for life, in case of sexual violence committed towards someone over whom the defendant had authority. Probably, the bringing of charges was discouraged by this harsh penalty or, as was also the case for girls assaulted by non-relatives, by the difficulty of showing *segni certissimi*, in other words, clear evidence of the sexual abuse. After all, cases of sexually assaulted girls were also very exiguous during French domination as seen in Chapter Two.

A lot of questions need to be answered: how many cases of incest were reported to justice? And why were these stories uncovered? How did judges deal with incest? How did they interpret the law? To what extent could fathers lay claims to their own daughters’ bodies? Until 1996 Italian law established that rape was a crime against the family. Behind this definition, there was the assumption that women’s sexuality belonged to the family. To what extent could fathers ‘handle’ their daughters’ sexuality? To what extent were they allowed to be violent toward their children? To what extent did children feel an obligation to obey their parents? How did children describe incest and their abuser? How did fathers try to defend themselves? Were daughters perceived in courts as the seducing daughters of mythology and fiction? How did the others components of the family, especially mothers, behave? How did neighbours behave? Did they try to protect daughters from violent fathers or did they ignore these stories keeping their silence? There were changes over the century? I repeat: a lot of questions need to be answered.

Chapter VI

Silence prevailed

‘The maschietta’: Domenico and Maddalena, 1806

On 18 June 1806, a surgeon working in the Florentine hospital of Santa Maria Nuova sent a medical report to the police about a girl, Maddalena, who was infected with gonorrhoea, probably as a result of having had sex. Soon afterwards, two police constables were sent to the hospital in order to examine Maddalena who declared she had been raped by her step-father, Domenico. The girl, aged twelve, worked as producer of plaits for straw-hats and she lived together with her mother and stepfather in a small village close to Florence, Lastra a Signa. After her testimony, her step father was arrested and charged by the secular court, the *Supremo Tribunale di Giustizia*, with ‘incest’. Even though he was not her biological father, Domenico, having married Maddalena’s mother after she was widowed, and when the girl was only three years old, was to all intents and purposes her parent.³³⁴

The *Codice leopoldino* made ‘incest’ a crime with harsh penalties: ten years of *lavoro pubblico* for men and five years of the house of correction for women if the act had been committed with a father, mother, son, brother, or sister – even with an in-law. If it had occurred between uncles, nephews, or first cousins, the punishment was left to the decision of the judges, but it should never be as harsh as *lavoro pubblico*.

From the introduction of the *Codice Leopoldino* to 1808, the *Supremo Tribunale di Giustizia* addressed only five cases of incest. These trials suggested that the silence about incest was supported by the society as a whole and, when such stories were reported to the authorities, it was due to the failure of private settlements or to excessive rumour among the public.

³³⁴ ASF, STG: 728 (Trial n. 209).

The story involving Maddalena was reported to the authorities by a surgeon working in the hospital Santa Maria Nuova. As already remarked in the first chapter, police was obliged to start investigations when they received a medical report that certified a young girl had had sex. According to the law, the latter had been raped even if there was not real violence. Nevertheless, doctors appeared to be very reluctant to denounce sexual assaults and only eight criminal procedures aiming to attest the rape of girls under twelve started after police had received a medical report. This reluctance shown by doctors appeared to be stronger when the girl had had sex with a relative and therefore the crime was not rape, but incest. Indeed, Maddalena's story was the only case that came to light after a medical report. It seems more probable the silence about incest was supported by doctors and even midwives.

An incident that occurred in 1796 is emblematic of the intention of repressing incest stories. Maria Assunta was a girl aged sixteen and she lived in a very small village close to Florence, Santa Margherita a Montici. Her elder sister, married to Andrea, was a wet nurse and sometimes she was obliged to leave home for a few days to re-introduce weaned children into their own houses. When she was absent from home, Maria Assunta moved to her sister's place to help her brother-in law with domestic services. In 1796 the whole village was speaking about an alleged pregnancy of the girl. All witnesses told officials they heard about the matter through public rumour and gossip. One woman stated that Maria Assunta had started to go to church and attend mass and other religious ceremonies wearing loose-fitting clothes. Several men testified that they discussed who the father of the unborn child might be in the village's only barbershop. First, they believed it was the servant of the priest of Santa Margherita a Montici; then, they speculated about a man who usually brought meat house to house. The latter was even summoned by the police who invited him to settle the matter privately, to bring an end to the rumours, but this individual protested his innocence robustly. Finally, people started to say Maria Assunta was expecting a baby by her brother-in-law because they slept together when her sister was away and, as a woman said to police constables, 'everyone knows that if you put a flame to tinder, it will catch fire easily'. Two women of Santa Margherita a Montici, unrelated to the two sisters, went to the

priest telling him the story and asking him to ‘reduce the scandal’ as the immoral conduct of this family was detrimental to the whole village’s honour. This kind of concern among inhabitants was absent in the wider context of Florence. Rumours about incest came to the ears of the public officials and maybe the fact that the entire village was discussing this story led to the launch of investigations. Nevertheless, the alleged pregnancy of Maria Assunta appeared to be baseless information. After the rumours spread in the village, the girl was removed from the indiscreet eyes of the people of Santa Margherita a Montici and was brought to Florence by her family. First, she stayed in the house of two midwives and then she was received in the hospital of Orbetello, an institution that had given support to poor women since the middle ages. Both midwives and doctors working in the hospital witnessed Maria Assunta at her arrival had her stomach bulged, and she did not menstruate, but she was not pregnant and she did not show traces of a recent pregnancy. The whole story, including the girls’ departure from the village and the ambiguous medical reports, suggests that Maria Assunta really had been expecting a child, and that it is possible that, with the midwives’ and doctors’ complicity she had hidden her illegitimate pregnancy or aborted or lost the baby. Moreover, rumours about her sexual conduct had largely destroyed her honour. Within her village, people now questioned her morality, even though she had enjoyed the reputation as a good girl before the rumours spread: although the story was buried by medical reports, doubts about the truth of the incest still remained.³³⁵

This story about Maria Assunta reveals also how the presence in Florence of several institutions that gave support to poor people might have played an important role in keeping sex crimes from the public eye. Alternatively, financial means probably permitted wealthy people to find private solutions. For instance, in 1796 Francesco, a doctor of law, was charged with incest with his niece-in-law, Maria Caterina, who was 25. As Francesco said to authorities, when he was young and still a humble student, he married a wealthy, older widow. Nevertheless, their married life soon proved unhappy

³³⁵ ASF, STG: 443 (Trial n. 265)

and they separated: Francesco lived in Florence where he worked, while his wife stayed in the countryside. Later, Francesco decided to host in his house his wife's niece who needed financial support, and he opened a shop selling kitchen ware where the girl could work. During Maria Caterina's residence at her uncle's house, the girl became pregnant on three occasions, although the father remained unknown, as did the fate of three babies. Police was informed by anonymous denunciations that the relationship between the girl and the uncle was incestuous, and they started investigations. Probably, the denunciations were made by Francesco's wife, furious because of this cohabitation, and in the process of trying to claim pieces of furniture and money from her estranged husband. Besides being rich, she was clearly also an influential woman, capable of pulling strings, and personally acquainted with the police constable who began the investigations. Until that moment Francesco was able to conceal all the pregnancies, paying for the midwives' silence. Supposedly, he paid also for a good lawyer because his was the only trial with a very long defence: the lawyer stated that even if the incest was real, this kind of relationship did not hurt anyone as other crimes, such as adultery, did. The process was suspended.³³⁶

Why did people not want to uncover incest stories? First, as was also the case with the sexual abuse of adult women, one answer to this question is obvious: honour. Yet in cases of rape, marriage between the woman and the rapist constituted a means of repairing damaged honour. For obvious reasons, this possibility was unthinkable when there was incest between two relatives. Second, victims of incest might have been discouraged from the idea of charging a relative for fear of being accused of incest on their own account. Manon Van Der Heijden found seven cases of incest reported to authorities in Deft and Rotterdam in the seventeenth-century and all these trials involved very young girls who had had sex with an adult male belonging to their own families: although the difference between the age of the girl and that of the

³³⁶ ASF, STG: 516 (Trial n. 143).

defendant, in all the cases both parties were convicted for incest.³³⁷ Third, accusing a relative meant charging with a crime someone the ‘victim’ was supposed to love. ‘My cousin Adriana said I would be a beast to denounce my father’: this sentence was pronounced by a young girl who had had sex with her father, a silk merchant, in Venice in 1557; the story has been described in detail by Joanna Ferraro.³³⁸ Ferraro adds another reason that led victims of incest not to report the crime to authorities: the economic dependence that could tie young girls (and their mothers) to adult male relatives.³³⁹ How to denounce a father (or a husband) who was the main financial provider for the household? This pragmatic obstacle appeared to be confirmed by trials addressed by the *Supremo Tribunale di Giustizia*. Probably, and not by coincidence, the only story of incest reported to police constables by a mother was that involving Luca and his daughter Maria in 1804. The latter was a girl aged eighteen, who told her mother she had been raped by her father Luca three times. First, the woman together with her daughter sought help from a priest. The recourse to clerics appeared to be the first obliged step to resolve sex scandals, whether in the countryside or in the town: significantly both the case involving Maria Assunta was first reported to the priest of Santa Margherita a Montici, while the incest between Maria and Luca occurred in the Tuscan capital. Nevertheless, the priest who spoke with Maria’s mother declared himself unable to give her any support. Afterwards, the woman went to the police station. She recounted how her daughter had been raped by her father, and she stressed the violence he had inflicted on Maria, possibly emphasising this latter point in order to ensure that the girl was seen as the victim, so that she too would not be charged with incest. It is not implausible that the same concern, together with the intention to avoid too many rumours led Maria’s mother to request that the police simply distance the man from her and the girl, but not charge him with incest. This mother and her sons (Maria had two brothers) did not depend economically on the defendant. On the contrary, the husband/father appeared to be a major obstacle to their wellbeing:

³³⁷ M. VAN DER HEIJEDN, Women as victims of sexual and domestic violence in seventeenth century Holland: criminal cases of rape, incest and maltreatment in Rotterdam and Deft. *Journal of social history*, 2000, 33 (3), 623-644.

³³⁸ FERRARO, *Nefarious crimes*, pp. 38-45.

³³⁹ *IBID*, p. 61.

he did not work and he was always drunk; indeed, twice the police had already forbidden him to enter Florentine taverns ‘from the Ave Maria of the evening Angelus to the sunrise in the morning’.³⁴⁰

It is useful now to return to Maddalena’s story, the only case addressed by the *Supremo Tribunale di Giustizia* that involved a girl entering puberty: she was twelve years old. Her stepfather, Domenico, like Maria’s father, brought little by way of income to the family: while he worked as a carter when he got married to the widow Anna, Maddalena’s mother, in 1806 he had been unemployed for some years. Indeed, when Maddalena said to the officers of the law in the hospital she had been sexually assaulted by her stepfather, Anna did not try to contradict her daughter’s deposition. Nevertheless, neither Maddalena nor her mother was believed because investigations showed they had a very bad *fama*, reputation.

Anna, Domenico, and Maddalena lived in this small village close to Florence called Lastra a Signa; they had three rooms in the second floor of a building inhabited by several families who were to be the main witnesses in this trial. The depositions of two women were representative of what neighbours thought about this family.

The married Anna, aged 50, producer of straw-hats, testified:

This Maddalena G. is a girl who is between eleven and twelve years old, her stepfather is called Domenico C. and her real mother is nicknamed Maschietta (a mannish woman or tomboy) [...] I have always heard they fought because Domenico C. did not work and because his wife did not want to take care of him [...] My husband did not want that I host her (Maddalena’s mother) in my house because she had a bad reputation as she travelled a lot around the world with her husband and her daughter [...] Domenico C. might be 40 years old, once he was a carter, but now I did not see him do any job, and when he was a young boy, he was a good boy, but

³⁴⁰ ASF, STG: 660 (Trial n. 16)

since he got married I do not know how he behaved because since the moment he got this Maschietta, nearly eight years ago, they have been always travelling around the world bringing with them this child [...] I think this child is a very bad girl and all people around here think the same and I and the other women of the village do not want our daughters to have any contact with her because she usually say bad words like men.

Maddalena's paternal aunt, aged 29 and working like many women in Lastra a Signa as a straw-hat maker, recounted that, after having learned of the incest, she did not ask her niece many questions because Maddalena 'was a child and she was afraid of providing her with much more *malizia* than the child already possessed.' The woman added: 'Domenico C. was nearly forty years old, he does not have sons, he does not do any jobs beyond that – if you want me to tell you – of going around the world and being *rusticino* [an ill-educated man] to his wife, that brought him around the world conducting a bad life, and I believed they are three *birboni* (rude and dishonest vagabonds) – father, mother and daughter –, because even the child has always been wandering around the world with them. Despite the fact she had not yet turned twelve, everyone spoke ill of this child, saying she has been corrupted by her mother and her stepfather.'

Despite the fact Maddalena tried in her deposition to show herself without *malizia* and knowledge of sex ('No one had done these things with me except him') and officers of the law found a register in the hospital certifying Domenico had suffered from venereal disease at the same time of the girl, Maddalena's bad reputation closely connected to her mother's *fama* led judges not to convict the defendant. In the sentence it was clearly written that against Domenico's account of events – and he always denied sexual intercourse – there was only the deposition made by Maddalena. In addition, the latter appeared to be unreliable because the girl was known for being *ragazza vagabonda*, a 'tramp' with a very bad reputation.

This outcome was not surprising. No trial for incest (1786–1808) ended in a conviction despite the fact the *Codice Leopoldino* strictly condemned

incestuous relationships. Given that they did not convict Domenico, who supposedly had sex with a child, is it far from extraordinary that judges did not punish men accused of sex with adult women? The point was Maddalena was not regarded as a child: her *malizia* – witnessed by neighbours – had made her a woman, or rather an unreliable and morally-questionable woman, nearly a *maschietta* like her mother.

These sentences might suggest another reason why people did not report incest stories to authorities: they might have believed it was pointless to go through the trouble of a trial that would almost certainly fail to lead to conviction. As already stressed at the beginning, from these trials it appears that people resorted to justice only in two cases: first, when public rumours were too widespread; second, after having tried to solve the situation privately, but they were unsuccessful. Nevertheless, it should be underlined that the search for ‘private settlements’ was more complicated in case of incest. It is obvious that a daughter abused by her father could not think of solving the problem by demanding a financial settlement for not charging him, as non-relatives could do. The only ‘private settlement’ these abused daughters, or their mothers, could resort to was the search of someone (first of all, priests and charitable foundations) that helped them to distance the father/husband. As in the above mentioned story of Maria, her mother in 1804 asked a priest to help her to distance her husband and she repeated the request to the police constables as she did not want to charge the man.³⁴¹ In addition, it should be remembered that a charge would have meant make the story public ruining the honour of the whole family. In other words, young victims of sexual abuse by male relatives had almost no means of escaping from their abusers or of seeking any form of redress.

Thus people did not make denunciations to the authorities, and the authorities proved reluctant to condemn those accused of incest. However, again in the case of Luca and Maria, I did find one official voice that expressed views that were anything but insensitive to the conditions of such girls, views

³⁴¹ ASF, STG: 660 (Trial n. 16)

that revealed a genuine understanding of psychological subjugation imposed on these girls and young women by their fathers, and it is with this testimony that I conclude. In 1804 the judge Giuseppe Stradetti wrote the following with regard to the case of Maria, a young woman of eighteen years old, raped by her father.

When one reflects on the great fear that a father can arouse in children, even when they are quite grown up [...] how much more it must be in this case, in which we are dealing with a most depraved father, burning with brutal passion, and this in the face of a young girl, who has never had [sexual] relations, it seems to me that this disgraced girl merits in such an affair a good deal of extenuation [...] And if she was not especially ready to bear testimony to paternal immorality and indecency, she warrants some sympathy, because a daughter must always have great repugnance in accusing her own father, however wicked he might be, of a nefarious crime, of which the very nature is revolting. [...] Such that everyone easily understands that she will be reduced to such a difficult step only when she finds herself constrained to do so by his repeated and persistent brutality. [...] If simple fatherly persuasion would have been apt to excuse the second defendant [the daughter Maria], how much more she will merit pardon, when the trial offers some trace of doubt, that she consented to the heinous desires of her father against her will, overpowered by the always innate fear of a girl, and especially of a daughter. This fear, even overlooking the physical power, that she says was used, provokes of itself a sort of violence that jurists call compulsive because it acts upon the soul.³⁴²

³⁴² ASF, STG: 660 (Trial n. 16).

‘You that are my blood’:

Adelaide and her grandfather, 1834

Adelaide, aged fifteen, was a very beautiful girl, blonde hair and nice skin tone, tall and slender. After her father died, she moved together with her mother, her younger sister and her grand-mother in law from Fiesole, where they had previously lived, to Florence. Adelaide, her sister and her grand-mother lived in via Taddea, while her mother, although always in touch with them, stayed in a house in via dell’Acqua where she worked as servant. The girl earned a little money by working as *stiratora*, doing some ironing and laundry for other people. Despite the fact both her mother and Adelaide had jobs, they always suffered from a lack of money and, for this reason, the girl was regularly obliged to visit her grandfather in Fiesole to get bread from him. After all, the family in Florence was made up of four women and two of them, her little sister and her grandmother, did not work: two salaries were not enough. Close to this female unit and close to Florence there was the male figure, the grandfather, a forest guard, apparently prepared to give sporadic financial support to the women of his family. Why did the latter leave Fiesole and this man? What subsequently occurred could offer an explanation. At the end of June 1834, Adelaide told her mother she was suffering from pain in her genitals. The girl was seen by a surgeon in the hospital of Santa Maria Nuova who declared Adelaide had a venereal disease probably due to sexual contacts with men. Initially the girl said she had been assaulted by a stranger in the streets of Florence; later she stated before a nurse and a religious man she had impure contacts with her grandfather in Fiesole. Both the man and Adelaide were accused of incest and sent before the judges of the *Ruota Criminale*.³⁴³

The girl, who was examined several times, recounted that, on the occasion she visited her grandfather in Fiesole to receive bread from him, she spent the night in the man’s house sleeping in the same bed because it was the only place available. At some time her grandfather woke up during the night and assaulted her. Adelaide’s language showed she had not sexual knowledge.

³⁴³ ASF, RC: 561 (Trial n. 17).

She called penis ‘thing’ or ‘a robust piece of flesh large as a coin of five *paoli* (Tuscan money)’, while she referred to semen as ‘something wet’ and to her vagina as ‘nature’. Voluntarily, she specified she did not know men. Nevertheless, she revealed the awareness of doing something wrong by defining what occurred as *porcherie*, *sudicerie*, *cosacce* (dirty things, indecencies, nasty things), and she added that once she shouted ‘dirty old man, these things cannot be done to a granddaughter’. Officers of the law wanted to know why Adelaide was aware of committing immoral acts and they asked her ‘why did you say to your grandfather dirty old man?’ Her answer was a perfect demonstration of the fact that in the past she had been totally ignorant of sexual matters: ‘I knew I was doing bad things because I took more than one Holy Communion and the priest told me it was wrong to touch and to let someone else touch me down below.’ The girl showed that she was fully aware of the difference between moral and immoral acts and, yet, above all, proved herself aware that an innocent girl should have neither sexual knowledge nor experience and, even if the latter was acquired involuntarily, it turned the girl into a *maliziosa*, a corrupted child. Indeed, during the legal debate with her grandfather, Adelaide asserted: ‘You have taught me the *malizia* [...] tomorrow I will go to a cloister. I have committed a sin, but now I will enter a nunnery and so I won’t be obliged to do those bad things you wanted me to do.’ Moreover, as underlined in the previous paragraph, the girl confessed the difficulty of charging a relative; she added: ‘Do you really think, grandpa, that if you were not the man, who did these things to me, I would want to name you, you that are my blood?’ Adelaide revealed feelings of deference and fear towards her grandfather; she recounted that sometimes he wanted her to drink wine and she obeyed so as not to irritate him, that he was ill-mannered and she was quite scared by him. In addition, in this relationship it was self-evident that it was economic dependence that tied the girl and her family to her grandfather: the man, in order to obtain sexual favours from his niece, promised her new clothes and shoes every month and, when the girl refused to obey him, her grandfather denied her the bread that she, her sisters, and her mother needed to keep away hunger.

The man, on the occasion he was examined, declared himself innocent asserting he was too old to commit these acts and above all he would have preferred an instant death rather than sex with a niece. He defined Adelaide as *sfacciata, birbona and puttanella* (insolent, sly, and a little tart). His lawyer, in order to defend him, tried to demonstrate Adelaide's immorality. Probably the defence knew that the girl's *malizia* might have been regarded by judges as an excuse or a mitigating circumstance of the crime, or better as a proof she was lying. The lawyer stated:

A young woman, who really had her uprightness at heart, would not permit her virginal flower to be lost, seduced by the promise of a little bread, and defeated by empty threats. She lost that was most sacred to her [...] It is implausible that she did not confide the first attempt on her modesty to people who could preserve it intact, and unblemished thereafter; and that at the same time she herself was so hot headed not to avoid occasions that could put her in a position where she might have to renounce this priceless good [...] Moreover, examinations could not establish that the semi-laceration of her hymen could be without doubt attributed to penetration by a male member.

The last sentence revealed the lawyer was aware that doctors usually did not take a clear stand. Despite this attempt to show Adelaide's immorality, the picture of the girl that came out from the trial was that of a very honest young woman. Officers of the law questioned a lot of people: the women and men for whom Adelaide worked, neighbours of the family in Florence, and several inhabitants of Fiesole. The girl usually did the laundry of two lawyers, a doctor and a priest who shared a house in front of the church San Michele. They asserted of her: 'she is not one of the many girls that go around Florence;' 'she is an honest girl as she always speaks with mild and placid temperament.' The woman who taught Adelaide to be a *stiratora* testified that the girl was very humble and shy. Another woman living in the same building in Florence as Adelaide said: 'I have always believed she was a good girl because she was homemaker and the hunger she suffered never made her to lose her head.' People living in Fiesole, who had been examined, bore witness

that Adelaide was an honest girl and she had a good reputation. By contrast, they showed some doubts about her grandfather's morality. They asserted the man was *donnaiolo*, a habitual womaniser. A farmer stated: 'this man, if he can mislead someone else, does his best and nearly all people have this opinion about him.' All those inhabitants of Fiesole who were heard during the investigations were aware of the incest from public rumours. A man told officers of the law: 'I don't know what to say to you. There are many voices about this man [Adelaide's grandfather]! Some asserted he is a *briccone* [scoundrel], some think him a gentleman. But all people around stated he was wrong in doing this bad thing with his niece.' The *fiesolani* – nearly all farm labourers, shopkeepers and women employed in textiles –, spoke a lot about this story, but they kept their distance. Officers asked one man if he believed the grandfather was able to commit incest and the witness affirmed: 'I don't know: he is old and the girl is his niece; I think that some affairs are not possible. Basta! It's enough. We cannot enter into other people's lives [...] Ask the whole of Fiesole and you will hear the same thing from everyone as what I told you.'

No relatives were examined apart from the mother-in-law of Adelaide's aunt who was the only witness to speak very badly about the girl. The woman told officers she heard the girl was accustomed to have sexual contacts with men behind the Duomo in Florence during the night. Nevertheless, this 'voice' was invalidated by the other depositions.

On 6 February 1835, eight months after the charge was made, judges passed sentence. They wrote that Adelaide was obliged by her grandfather to commit incest and they believed the girl had already been punished by what she was forced to suffer: as a consequence, no further penalties were ordered against her. Conversely, her grandfather was sentenced to one year of banishment in Volterra. In the sentence, judges clearly asserted they reached this outcome on the base of the opinion witnesses had about both Adelaide and her grandfather. The former was widely regarded as a girl with a very good

person: she was shy, polite, reserved, and incapable of lying.³⁴⁴ The latter had a very bad reputation and he was described as devoted to sensual pleasures. In addition, judges underlined that it was unbelievable Adelaide that wanted to charge her grandfather untruthfully because she was attached to him and she was also grateful to the person who supported her family financially. The girl's good character and her very immature age, *tenerissima età*, led judges to conclude that person who was really responsible for the crime was the old man. What is significant here was not Adelaide's age – at fifteen she was considered already on the cusp of womanhood – but her innocence. Shy, well-behaved, and ignorant about sex, she was regarded as a child irrespective of her actual years, and as a child she deserved protection. In this case it is self-evident that the definition of childhood was more tightly connected to specific attributes rather than to an established age.

This case was the only trial for incest addressed by the *Ruota Criminale* from 1814 to 1838. As already stressed in the previous chapter, silence was the norm and charitable institutions or financial means fostered private solutions. In the trial's documents it was recorded that Adelaide, before going to the hospital, was seen by a private doctor who, after having understood the family was poor and unable to bear the cost of domestic treatment, suggested that the girl's mother go to the hospital. As I have stressed before, having been seen in the hospital did not mean an automatic charge because doctors were very reluctant to report sexual crimes. Why then was this story unveiled? Adelaide's mother told her daughter to keep the secret and charge someone else. Probably, a woman, a neighbour of the family in Florence, played a crucial role. Assunta, aged 35, was an orphan, and had been raised in the Ospedale degli Innocenti. Later, she got married, but very soon she lost her husband, and was left a widow with four children to bring up. She had worked as nurse in the Ospedale Bonifacio for eight years, although when she met Adelaide and her mother she was working as *filatrice a rocca* (a spinner using a distaff, *rocca* or *conocchia*). In other words, Assunta knew what it meant to be alone and forced to confront difficult personal problems. Adelaide's mother confided the story of the incest

³⁴⁴ The key adjective used here is *verecondia*. See chapter one for a fuller discussion of the significance of this word.

to Assunta before going to the hospital and, as a result, the woman persuaded the girl to tell the truth. Nevertheless, Assunta did not leave the family alone and she acted with an impressive good sense: before reporting the story to police, she immediately called a priest to hear the girl's story in the hospital; she tried to engage reliable witnesses and must also have been aware of Adelaide's good reputation and that, in consequence, she would probably be believed by the authorities. Assunta demonstrated an understanding of how the justice system functioned, as well probably of the kind of vocabulary and narrative Adelaide needed to employ and what witnesses ought to say to ensure that the judges regarded the girl as innocent. The woman told that, when she was enquiring Adelaide about what occurred with her grandfather, Assunta had the doubt the girl could not understand what she was asking and what really took place with the man. In other words, Assunta appeared not to have sexual knowledge: she was doubtless innocent.

'She had been made inclined to incest':

Annunziata and Giuseppe, 1856

On 9 January 1856 the *Tribunale collegiale di Prima Istanza* dealt with a case of incest that involved a young woman aged 22 and her father: their names were respectively Annunziata and Giuseppe.³⁴⁵

The *Codice leopoldino* had been replaced three years earlier by the new *Codice Penale Toscano*. The latter preserved the offence of incest, while other Italian pre-unification codes, like that of the two Sicilies and that of Parma, had abolished it inspired by the French code of 1810 that aimed at the clear separation of morality from law. Nevertheless, as Patrizia Guarnieri has underlined, Tuscan lawyers were aware of and supporters of the distinction between morality and law. Probably, they chose to preserve the offence because they knew very often incest occurred in relationships of non-equality

³⁴⁵ ASF, TCPI: 2453 (Trial n. 12).

and they wanted to protect victims.³⁴⁶ It was not a coincidence that in Tuscany alone the crime of *stupro semplice* survived until 1890 showing the paternalistic and protective attitude of lawyers towards women. As for incest, the *Codice penale toscano* made penalties more moderate than the *Codice leopoldino*: maximum six years of reclusion instead of ten years of *lavoro pubblico*. Probably, judges were aware that such strict penalties had never been applied. Like the *Codice Leopoldino*, the new code regarded either sex between blood relatives or between in-laws as incest. In addition, it established harsher penalties towards the defendant that was an ascending relative. Judges wanted to punish the abuse of authority and not only the mingling of blood. For this reason, Giovanni Carmignani stated that full sexual intercourse was not necessary to label a sexual act as ‘incest’ when the offence occurred between an older and a younger relative. Nevertheless, this argument did not enter into the law, and when sexual intercourse was not completed, the incest was defined as ‘attempt’.³⁴⁷ The *Codice penale toscano* took into account also another case of incest ignored by other laws, that where ‘adoptive fathers and tutors have abused adopted daughters or pupils.’ In other words, it could be classified as incest even when there was no blood relationship. When authorities discovered incestuous relationships, the couple involved was accused of the crime, but, as in the past, if one person was a child under twelve, the latter could not be charged.

Over the period 1838–1849, 1856–1865, the *Tribunale collegiale di Prima Istanza* addressed only five cases of incest: this crime appears to have been a legal taboo.³⁴⁸

Only one story involved a girl under twelve. In 1839, Carolina, aged ten, lived in a small village, Dicomano, together with her large family of farmers. Her older cousin usually had sexual contacts with her till her father discovered the illicit relationship and reported it to authorities. The boy, aged 26, was regarded as guilty of *mollizie* because the girl’s virginity was still

³⁴⁶ GUARNIERI, *Dangerous girls*, p. 376.

³⁴⁷ IBIDEM

³⁴⁸ ASF, TCPI: 2388-2425 (1839-1849); 2453-2502 (1856-1865). Unfortunately, documents referring to the period 1850-1855 had been lost.

intact and he was sentenced to one year of banishment. Unfortunately, this trial has not been preserved in the archive and it is possible to read only the sentence.³⁴⁹ The other trials involved adult men and women, like that introduced at the beginning of this chapter, which is the only case brought before the courts to have occurred in Florence.

Giuseppe was born and grew up in Florence where he worked as shoemaker. He got married, and his wife gave to birth one daughter. Afterwards Giuseppe's wife fell ill and she was confined in a room alone. Her daughter, Annunziata, took her place in the nuptial bed. I have not been able to establish from the surviving documents how old the daughter was when starting sleeping with her father. Annunziata's mother was assisted by a neighbour who later told the authorities the woman confided to her she suspected incest because she heard unusual noises coming from the room where her daughter slept with her father. Was Giuseppe sexually abusing Annunziata? In this case too very few documents were preserved in the archive and much of the data is missing, including information on how the authorities came to know of the incestuous relationship in 1856. Nevertheless, some facts can be established. Both defendants charged with incest denied the accusation. Some witnesses testified they suspected incest because Giuseppe was so jealous about his daughter and that he became violent towards men who tried to approach to her. Moreover, they added Annunziata had been pregnant three times and no one knew the author of these pregnancies. Above all witnesses were perplexed that the daughter instead of the wife slept together in the same bed as Giuseppe. If the incest occurred, when did it start and how long did it last? It is impossible to answer these questions. Nevertheless, it is plausible to conjecture that father-daughter incest was often, perhaps usually a long-term relationship starting when the girl was very young, probably a child. For example, in 1862 another man, living in San Giorgio a Ruballa, was charged with incest committed with his stepdaughter: in the sentence it was clearly written this affair started when the girl was very young, of tender age. Despite the fact that, at the time of the trial, the girl was already an adult, judges took

³⁴⁹ ASF, TCPI: 2388 (Trial n. 71).

into account the abuse of authority and they sentenced only the stepfather to reclusion. Nevertheless, the penalty was very mild: eight months of prison. Another element emerged from this last sentence: the stepdaughter, when she was examined, pointed out that some relatives knew that she had sex with her stepfather, but they had kept their silence.³⁵⁰ Probably, Annunziata's mother not only suspected incest, but was absolutely aware of what occurred in the bedroom where her daughter slept together with his husband.

When the *Tribunale collegiale di Prima istanza* addressed the trial involving Annunziata and Giuseppe, the court decided to convey the case to the *Corte Regia*, a superior court, because the story was too complex. Indeed, Giuseppe was not only charged with incest, but also with *lenocinio*, in other words of prostituting his daughter. The judges wrote that the pimping of his daughter could have 'corrupted' the girl and facilitated or caused he surrender to her father's requests: probably, Annunziata had been 'made inclined' to incest by Giuseppe. Judges as lawyers took into account the abuse of authority. Some months later the *Corte Regia* brought an end to this story: as for Giuseppe, further arguments were useless because in the meantime he died; Annunziata was acquitted.³⁵¹ The reason for the woman's acquittal was not written in the sentence. Probably, the abuse of authority was admitted or maybe proofs were not sufficient.

To conclude, despite the fact the new *Codice penale toscano* was very sensitive to the abuse of authority and the no-equality relationship was taken into account by judges, the *Tribunale Collegiale di Prima istanza* dealt with too few cases to draw firm conclusions on attitudes to incest. Incest was quite simply not reported to authorities. Silence prevailed.

³⁵⁰ ASF, TCPI: 2479 (Trial n. 12).

³⁵¹ ASF, Corte Regia: 1028

Chapter VII

Incest or *Violenza carnale*?

‘As husband and wife’:

Vittoria and Giuseppe, 1882

In 1882 Vittoria was a girl aged sixteen; she lived alone with her father, Giuseppe, in via Fra Bartolomeo, very close to the Piazza della Libertà, in Florence. Both were unskilled workers at the Fortezza da Basso, the massive sixteenth-century fortification used in the late nineteenth century for the manufacture of weapons. One day the girl went to the police complaining about her father’s behaviour: the latter tried to sexually assault her several times.³⁵²

This case was addressed by the *Corte d’Assise* that dealt with a total of eighteen cases of father-daughter incest from 1866 to 1914. In 1882 the penal code still in force was the law promulgated in 1853, which would be replaced by the *Codice Zanardelli* in 1890. Over the period in which the Tuscan penal code was still in force (1866–1890), the *Corte d’Assise* in Florence dealt with only three trials for incest: one of these was the case involving Vittoria e Giuseppe.

In 1882 Vittoria decided to go by herself to the police and press charges against her father. It was not an unusual occurrence: from 1866 to 1914 several trials were initiated by girls who denounced their abusive fathers. Who were these girls? They all belonged to the lowest classes and their decision to seek justice through an approach to the authorities appears to have had its origin in two contrasting reasons: their total solitude or the strength of their social network.

³⁵² ASF, PA: 1885, b. 1191, f. 932.

Another totally isolated young woman was Palmira. She had been having sex with her father since she was a girl in Florence, before eventually escaping to Pisa and beginning to work as a domestic servant. Nevertheless, her father was upset at her absence and began to send intimidating letters. In a letter dated 1 July 1865 he wrote: ‘I warn you that I want you in my house, I checked with an expert who informed me that a father has rights over his daughter, and I absolutely insist that you to come back home, since I am alone and cannot look after myself, and remember that you are a minor and must not be seduced by anyone. You must obey, or it will be the worse for you. Reply to me immediately because if I come to get you there [ie Pisa], I shall easily compromise myself. I greet you. I am your father (but no longer with great affection).’³⁵³ Palmira had no other relatives or friends, although she did possess a material proof of her brutality. Two days after the letter, she went to the police and requested help. Her father eventually received a six-year prison sentence and lost all paternal rights over his daughter.

Vittoria’s situation was very different since she could rely on a strong and supportive social network: her neighbours living in via Fra Bartolomeo. People helped her above all by testifying she was a good and honest girl, without *malizia*: she had never had love affairs. By contrast, they emphasised to the authorities that Giuseppe was ill-mannered and often drunk. In addition, neighbours stressed that they knew Vittoria was mistreated by her father because they regularly heard the girl shout out. Vittoria’s good reputation, which was investigated by public authorities, was essential to establishing her innocence and to rebuffing any suggestion that she lacked sincerity, especially important given that suspicions about false accusations of sexual crimes and about children’s honesty persisted in trials. In a case that occurred in 1886 officers of the law even went so far as to ask a girl named Ermelinda whether she was prepared to be caught red-handed with her father; her assertive answer removed any doubts about her honesty.³⁵⁴ In this trial, Ermelinda, like Vittoria, went on her own to charge her father, but she was clearly encouraged to act in this way by a woman living close to her, who had put her up for a while, and

³⁵³ ASF, PA: 1877, b. 834, f. 851.

³⁵⁴ ASF, PA: 1886, b. 1218, f. 689.

had given her bread. In another case, which occurred in 1911, a woman living close to Norma, a girl abused by her older brother, went personally to authorities to report what she knew. Another incest trial in 1914 came about because of charges brought by the girl's neighbours.³⁵⁵ Therefore, neighbours in different ways played an essential role in trials. Vittoria, like Ermelinda, was supported by people close to her not only in court, but also in her daily life; she was hosted by a family living in the same building where she stayed with her father.

Vittoria lived alone with her father because her mother was dead. Nine out of the nineteen fathers accused of having had sex with their daughters were widowers and in several other cases, although the wife/mother was still alive, she was absent for other reasons.³⁵⁶ In other words, these men simply replaced their wives with their daughters. As Joanne Ferraro points out, it was more convenient to 'use' daughters, women already available in the house, to satisfy sexual desires rather than looking for another wife or paying prostitutes.³⁵⁷ Girls appeared to be aware of this practice. Palmira in 1867 begged officials not to allow her reunification with her father because her stepmother was away and the girl was certain that her father would have wanted to renew his sexual relations with her.³⁵⁸ In 1902 Olga, aged thirteen, testified that, after her mother's death, her father wanted her to sleep in the nuptial bed: 'I put myself in the same side of the bed where my mother usually slept.'³⁵⁹ Sometimes the 'use' of the family's women was not only fathers' prerogative. In 1911 in Prato Giulio was accused of having had sex with her sister Norma, aged eleven. The well-known psychiatrist Eugenio Tanzi was appointed to examine Giulio; he wrote:

The accused is a young man of 21 years of age, who has been exempted from military service because of a visible and chronic weakness of his legs.

³⁵⁵ ASF, PA: 1914, b. 14, f.1.

³⁵⁶ Palmira's father was married but he did not live with her wife (ASF, PA: 1877, b. 834, f. 851). Ernesto had his wife living abroad (ASF, PA: 1915: b.16, f. 8). Vincenzo's wife was hospitalised in a mental institution (ASF, PA: 1914, b. 14, f. 1).

³⁵⁷ FERRARO, *Nefarious crimes*, p. 61.

³⁵⁸ ASF, PA: 1877, b. 834, f. 851.

³⁵⁹ ASF, PA: 1903, b. 2281, I, f. 14.

This infirmity barely permits him to stand, and only to walk for short distances with the help of a stick or support from another person [...] meanwhile, it is certain that Giulio has the reputation of being neither simple nor insane [...] His physical incapacity, let us say, constitutes a difficulty with regard to vaginal coitus, but not for lustful acts in general. One would need absolute physical impotence to render unbelievable the imputation made against Giulio: with regard to the notion that relative or psychological impotence might have rendered Giulio incapable of the specific lustful acts perpetrated on his little sister, it could be said that far from rendering him incapable, it was the psychological condition that actually inspired them. Indeed, one understands that the accused, precisely because of his slight capacity to perform coitus, abstained from it, being logical enough the intention to avoid possible failures; but one understands at the same time that forced abstinence had inflamed the man, exacerbated his lusts, and encouraged his attempts on a young girl from whom he did not have to fear scorn. Perverts, invert, rapists are often sufferers from partial impotence: impotent in the face of normal amorous stimuli, insensible to the erotic ideal of healthy people, they become open to powerful impulses when faced with a criminal programme, such as incest, violence against children, or active homosexuality. Certainly, these aberrations of the sexual instinct are often the expression of psychological anomalies and maybe of insanity; but no one has ever presumed to argue that an anomaly of this sort is sufficient to extend to all perverts the licence of madness and the safe passage to impunity.³⁶⁰

Thus Eugenio Tanzi stressed that in all probability Giulio – crippled and maladroit – preferred sex with his little sister to coitus with an unknown woman who might have mocked him for his inadequacies. But if Tanzi was prepared to explain Giulio's conduct, he was not prepared to justify the defendant's behaviour through appeal to insanity.

³⁶⁰ ASF, PA: 1912, b. 10, f. 2.

To return to Vittoria's story: as in the case of the other girls I have discussed so far, Vittoria was aware that her father had in effect tried to use her to replace her absent mother. In Vittoria's deposition she stressed many times that her father wanted her to behave as a wife, even going so far as to suggest that they leave Florence and take up residence in Livorno, where no one knew them, so they could live 'as husband and wife', as 'sposi novelli'.³⁶¹

But how did mothers behave when they were present and aware of incestuous relationships? Usually, mothers seem to have been aware of what was going on between their daughters and their husbands/fathers, but they kept their silence. In 1907 Raffaella aged nine recounted to officers of the law that she had been sexually assaulted by her stepfather, who had infected her with a venereal disease. Before the charge was made, she was brought to the hospital and the step-father told Raffaella in front of her mother, 'who did not ask her how she was': 'be careful not to say I infected you with this disease otherwise you will get us put in prison and when I get out, I will beat you.' From childhood the girl usually spent some periods in the countryside in the house of a married couple, called in Florence *balii*, who took care of her when their parents could not. After Raffaella's hospital treatment, she was again despatched to her *balii*, but, before leaving, her mother told her not to say anything to the couple and, if they inquired about the disease, she should answer that she had been infected from the lavatory. Eventually, however, Raffaella told her *balii* what had happened, and they accompanied her to the police to make the denunciation.³⁶² In other stories mothers were – like their daughters – the victims of violence perpetrated by their husbands. According to public rumour, Olga's mother died because of her husband's violence.³⁶³ Ermelinda's mother, when she was examined by officers of the law, first refused to answer their questions, and then she recounted that she was present

³⁶¹ E. TOGNOTTI, Come sposi novelli. Storia di incesto in Sardegna a fine Ottocento. In: A. PASI, P. SORCINELLI, ed. *Amori e trasgressioni. Rapporti di coppia tra '800 e '900*. Bari: Dedalo, 1995, pp. 149-162. In this father-daughter incest story, which occurred in Sardegna at the end of the nineteenth century, the mother was present, but the daughter behaved as if she was her father's wife, sleeping with the man and managing the home.

³⁶² ASF, PA: 1907, b. 2, II, f. 22.

³⁶³ ASF, PA: 1903, b. 2281, I, f. 14. About marital violence, E. FOYSTER, *Marital violence: an English family history. 1660-1857*. Cambridge: Cambridge University Press, 2005. M. CAVINA, *Nozze di sangue. Storia della violenza coniugale*. Bari: Laterza 2011.

on many occasions when her husband had caressed all her daughters, not only Ermelinda, adding that if she had tried to scold or remonstrate with him, he would have beaten her: 'my husband treated us all roughly, beating me and the girls too.'³⁶⁴ Unlike Raffaella and Ermelinda, Vittoria did not have her mother alive, but she could rely on a woman living in the Via Fra Bartolomeo who in her deposition asserted she felt like a mother for the girl.

What about the outcome of the trial involving Vittoria and Giuseppe? On 3 June 1885, Giuseppe was judged guilty of *violenza carnale* and incest, accompanied sometimes by physical violence and sometimes by psychological violence (*violenza morale*), against his daughter Vittoria and he was sentenced to six years of prison and to the loss of any parental rights over the girl. Considering that Giuseppe was accused of two crimes, the penalty was not especially harsh, but for the first time Florentine judges showed themselves stricter towards abuser fathers, even if the judgement came a full three years after the initial denunciation. Never before had a six year sentence been passed. The same punishment would be handed out again to two more fathers in the years immediately following this judgement. Nevertheless, it should be remembered that from 1866 to 1890 the *Corte d'Assise* dealt with only three cases of incest. Taking into account the data I have shown in the previous chapter about the *Tribunale Collegiale di Prima Istanza*, it should be stressed that over the period in which the Tuscan penal code was in force, namely from 1853 to 1890, only seven incest cases reached the court. In other words, a so sophisticated law, as I explained in the previous chapter, was applied only on very few occasions. Nevertheless, what should be noted is that, while the Grand Duchy's court came three times to an acquittal and two times imposed mild convictions, the Italian court raised penalties as never before.

³⁶⁴ ASF, PA: 1886, b. 1218, f. 689.

‘He took me and dragged me to the bedroom’:

Antonio and Maria, 1907

On 13th February 1907, Maria, a girl aged thirteen, went to the police station in Florence because she had been sexually ‘abused’ (she used this verb) by her father, Antonio. Maria lived together with two older brothers and her father who was a carter aged 57. Her mother died soon after having given birth to her. Before going to the police, the girl asked for help from her uncle and aunt who suggested that she speak to a priest. The latter made it quite clear that he thought Maria should keep silent about the story in order not to cause any ‘scandal’. As at the beginning of the century, priests tried to look for private solutions and suggested what Fabienne Giuliani called the ‘strategy of avoidance’, in other words to avoid the father.³⁶⁵ In the case involving Raffaella, the girl abused by her stepfather, the priest who knew what was going on in her household provided the family with a bed in order to avoid that the married couple and the little girl slept together.³⁶⁶

The priest who spoke with Maria promised her he would find a charitable institution willing to house her. From this story and from others too it is clear that charitable institutions very often hosted girls who had been subject to sexual violence. Ermelinda in 1886 recounted that, after having been sexually assaulted by her father, she escaped from home and she started begging on the Florentine streets until she was found by police constables and brought to the Pia Casa Del Lavoro. The role played by these institutions has already been underlined by the Italian historian Annarita Buttafuoco. The latter has studied the Asilo Mariuccia in Milan, a secular institution that provided assistance to girls in need: here, at the beginning of the twentieth century, the majority of girls had an untold history of incest and rape.³⁶⁷ On the one hand, such institutions helped vulnerable and abused girls; on the other hand, as Patrizia Guarnieri points out, their existence also ‘protected’ society from these

³⁶⁵ F. GIULIANI, Monsters in the village? Incest in the nineteenth century France. *Journal of Social History*, 42 (4), 2009, 919–932.

³⁶⁶ ASF, PA: 1907, b. 2, II, f. 22.

³⁶⁷ A. BUTTAFUOCO, *Le Mariuccine. Storia di un’istituzione laica. L’asilo Mariuccia*. Milano: Franco Angeli, 1985, pp. 85–122.

girls who were called ‘dangerous’: not merely girls who were in danger, but also who were dangerous to others because of their irregular sexual behaviour, and their knowledge of sexual matters however unconventionally acquired.³⁶⁸

What then of Maria’s story? The girl listened to the priest’s words, and waited for a while for a summons from an appropriate institution. The delay and her loneliness – her uncle and her aunt were totally uninterested in her – led Maria to go to the police and make charges against her father. This trial, like that discussed in the previous paragraph, was dealt with by the *Corte d’Assise*, but the penal code was not that enacted in 1853. Indeed, in 1890 the first fully national Italian penal code, the so-called *Codice Zanardelli*, entered into force.

With regard to incest, pre-unification penal codes were very different from each other. The Sardinian-Piedmontese code, like that of Tuscany, punished incest even when it had been committed privately. Conversely, the penal codes in force in the Kingdom of the two Sicilies and in the Duchy of Parma did not regard incest as a crime. After unification, the Sardinian penal code, extended to the whole of the newly united Kingdom of Italy with the exception of Tuscany, was deprived of the incest offence. In other words, incest remained a crime only in Tuscany. When the *Codice Zanardelli* was drawn up, lawyers tried to find a compromise among all the pre-unification codes. Incest was labelled as ‘a crime against family’ when relatives involved in the relationships, who were supposed to express their mutual agreement, provoked public scandal. This phrase ‘public scandal’ had two meanings: first, something that caused widespread public indignation; second, a *malo esempio*, something that set a bad example to the wider community.³⁶⁹ It goes without saying that many stories of father-daughter incest were literally buried within the household. For instance, in 1894 Luigi was accused of having sexually assaulted two girls; after having been denounced by the parents of these children, the police decided to examine Luigi’s daughters as well, and discovered that they too had been victims of regular abuse. Significantly

³⁶⁸ GUARNIERI, *Dangerous girls*, p. 371.

³⁶⁹ GUARNIERI, *L’incesto scandaloso*, pp. 57-59.

neither sister had talked about the matter to anyone else or to each other.³⁷⁰ ‘Public scandal’ was clearly not always present in all cases of incest, and this is why it was not considered central to the Tuscan code enacted in 1853.

Another difference between the Tuscan penal code and the 1890 code was given by the loss in the latter of the Tuscan distinction between relatives, whose power was unequal. The *Codice Zanardelli* made incest a crime without an injured party; it presumed mutual agreement and above all it made female minors responsible for the crime. As a result, daughters who decided to go to the police and charge their fathers with incest ran the risk of being accused of the crime. What kind of choice did they have? The only way not to run the risk of also being charged with incest was to demonstrate physical violence. However, in so-doing this changed the charge from incest to *violenza carnale*. Indeed, of the sixteen trials dealing with father-daughter incest addressed by the *Corte d’Assise* from 1890 to 1914, no one was labelled as an ‘incest case’: charges were *violenza carnale* or *atti di libidine*. As already stressed in the third chapter, the *Codice Zanardelli* established the charge *ex-officio* only in case of abuse of authority: this explained why minors as such as Maria could go to the police and accuse their fathers. When the violence was committed by someone that had not authority over the injured party, fathers were left free whether to choose to accuse their child’s rapist or not. In other words, *patria potestas* came before children’s rights.³⁷¹ Indeed, a trial for an incest case addressed by the *Corte d’Assise* in 1911 was interrupted because the man who committed the crime with a girl aged eleven was not the father, but an older cousin and the father withdrew the charge.³⁷²

Possibly girls were aware of these legal changes and knew they had to charge their fathers with *violenza carnale*, and not with incest. This is one explanation why it was at this stage that the language of violence reached its peak. The other possibility is that public examiners tried to pilot witnesses through their questions towards making complaints of *violenza carnale* in order

³⁷⁰ ASF, PA: 1895, b. 1564, I, f. 7.

³⁷¹ About the story of the *patria potestas*, M.CAVINA, *Il padre spodestato. L’autorità paterna dall’antichità a oggi*. Bari: Laterza 2007.

³⁷² ASF, PA: 1912, b. 10, f. 2.

to protect girls.³⁷³ Indeed, at the beginning of the twentieth century, for the first time police constables began to use very severe language in their reports about fathers accused of having abused of their daughters. For instance, in 1902 the constables of the Commissariato di Santo Spirito wrote: '[...] the monster with whom this story deals is not any old satyr, an unknown stranger, a degenerate but a man who can think, who has the light of reason, and who, in his most terrible and brutal reality is the victim's very father.'³⁷⁴ The officers of the law who heard Maria also defined Antonio as a beast and an unnatural father.

The narrative of violence was not so visceral in the depositions made by girls sexually assaulted by non-relatives. Let me give two examples. First, Maria, the protagonist of the story recounted in this paragraph:

My mother died when I was born, and I stayed with my father and my two older brothers, Eugenio and Guido. One Sunday in June 1906 I was at home alone with my father. It was towards 3.30. Suddenly my father said to me: 'Come along Maria let's do a little something together.' I – from conversations I had heard from women – understood the significance of those words, and was disturbed and said to him that these were not things to do with a little daughter. But he replied to me that daddies did the same thing to their daughters and moreover he was the one who looked after me. I made to escape, but he took me and dragged me to the bedroom, threw me on the bed and began to lift up my petticoats. I was shouting out, and he let me scream, knowing that there was no one else in the building because it was Sunday. With his hands he was searching to take off my underwear and, indeed, even though I struggled to stop him he succeeded. I jumped down from the bed, but he caught me again, and threw me on the bed again, opened his breeches and pulled out his member. I squeezed my legs together but he opened them with force. He stretched me out on the edge of the bed with my legs hanging down. Being above me and with his feet on the ground, he pushed his member between my thighs and pushed it into my

³⁷³ Questions could be understood by the answers because they were not transcribed in the trials addressed by the Corte d'Assise.

³⁷⁴ ASF, PA: 1903, b. 2281, I, f. 14.

‘nature’ doing me great harm [...] From that Sunday he continued every feast day – or almost every one – to couple with me [...] Given that from then on, I said to him that I did not want to put up with his actions any longer, he told me that if I spoke about it, he would give me a beating.

Second, Olga, a girl aged thirteen:

My mother died on 28 April last year, struck down by pestilent typhus, and about a month after her death, my aunt Clorinda came to our house to take away the little bed that was her property, in which I had always slept until that point. I was thus obliged to lie down in the same marital bed, and really in the same place as my poor mother had slept. Another month or a bit less later, during the night, waking with a start, I found my father on top of me, who, first with caresses and then by force, forced me to adopt a special position, with my head down and with my back turned to him and then he put it in my anus, causing me great pain. I am not going to talk about the violence with which that night I was subjected brutally to this evil action, because I am ashamed even to repeat it, and I can only say that despite my attempts to ward him off and my threats to scream so that my grandfather and my aunt Gemma F. who slept in the next room would hear, he continued unperturbed to do his thing in my arse telling me all the time that it would not do me any harm, but even if I had cried out or said something to someone he would without doubt have killed me. I have always stayed silent because I believed and still believe that my father is capable of doing such a thing. On that same night I still recall that, while he was raping me, he was holding me tight, kissing me, caressing me, putting his hands on my ‘nature’; and, in short, doing everything that he wanted to me [...] my father not only by force, but also always with the threat to kill me, forced me to keep silent, when even in these times because I would certainly comply with what he wanted and to satisfy his desires, he pummelled my body producing on me with pinching bruises on my thighs, and sometimes in rage, biting me on the back, on the arms, and tightly squeezing my breasts. I have even now a great bruise on my right thigh inflicted on me by my father because I did not want to satisfy him, not to mention wounds from a bite on my right

shoulder [...] Twelve or thirteen days ago my father using the excuse that he had found me in Borgo Stella in the company of a young lass of my age, named Adele, chased me with a knotted stick, leaving me with painful injuries on the shoulders. At home he then gave me the rest, hurling a glass wine flask at me head, causing a large swelling at the top of my forehead. I hold that my father behaves in this way towards me for two reasons: first, because he is scared that I might tell others about how brutally he treats me during the night; then because, as I have said before, I did not always want to volunteer myself to satisfy his lusts.³⁷⁵

Nevertheless, physical violence was not always present. In 1913 Emma, aged nineteen, signed a blank paper that was later filled in by her boyfriend who brought it to the police. By means of this document, Emma laid charges of *violenza carnale* against her father. Obviously, after having received the denunciation, officers of the law examined her and they discovered the truth. Her father, Ernesto, got married in 1892 to a Swiss woman who had already a daughter, Lina, from a previous relationship. Ernesto started to have sex with the latter and she gave birth to Emma. Then the man began to have regular sexual relations with his daughter by his step-daughter. This, then, was a story of double incest. Emma spent her childhood and puberty with Ernesto and they lived together in several towns: Geneva, Florence, Venice and finally Homs in Libya. The father worked as waiter and photographer. In Libya Emma fell in love with a boy who discovered the illicit nature of the relationship between the girl and Ernesto and he tried to explain Emma it was not ‘normal’; eventually he decided to inform the police about the incest. The young woman told her story to a police officer. Significantly, though, her tale was not marked by any violence at all, and she stressed that her father was always kind towards her and he had never mistreated her.

From the age of eight years my father started to touch me on my genitals, and in truth I must declare that my mother, sometimes at my father’s request, told me to go to bed with him. It was in Lenzburg in Switzerland

³⁷⁵ ASF, PA: 1903, b. 2281, I, f. 14.

and I was fourteen years old when my father first coupled with me carnally. I always coupled with my father when I was with him, and the last time was in October 1912 in Tripoli. If truth be told, given the upbringing that I had, and given that my father told me it was quite natural, and given my sex, I coupled with my father with pleasure. I did not couple with him after October 1912 because I got sick with intestinal fevers, and because I began to understand that what I was doing was very bad. This derived from the fact that I began to find it disgusting, and to have doubts about the decency of what was going on, and given my age and my line of thinking I had the strength to resist. On arrival at Tripoli, in March 1912, my father set up a photographic studio, and took portraits of me many times, as well as taking two photographs in which I appeared nude [...] I did not object, because I was convinced that he would not show them to anyone [...] When my father was arrested, I, turning to Chiariotti [her boyfriend], asked him what would happen to me, and he told me not to worry because he had thought to send me to Rome to stay with some of his relatives. During our time in Homs, there were no [sexual] relations between my father and me; every evening, however, on going to kiss him goodnight, he would hug me tightly to him [...] Since I was a little girl, my father always looked after me like a mother and has continued to do so. In truth, I swear and firmly declare that my father has never used any physical violence against me or menaces to make me comply with his desires, either in Tripoli or anywhere else; instead, regrettably, he has swaddled me affection that was attentive and almost imploring in those moments when he approached me. During the period of my illness in Tripoli, and during our first days in Homs, when I was convalescing, my father never indicated that he wanted to couple with me, and he has always treated me with the same affection. Subsequently, however, always imploring and declaring that my coupling with him was both natural and right (as he had taught me in the past), since it was the duty of a daughter not to leave her father suffering and render him unhappy, he asked me to couple with him again. But, both because Chiariotti slept in a bedroom next to and opening onto ours, and because he had convinced me that what my father asked was neither natural nor just, I knew that I had to resist the imploring demands of my father. And with all this in mind, I must

declare that my father, even receiving my rebuttal to his invitations, never dared to threaten me, but simply said that I was not behaving like a loving daughter; and he always had towards me a profoundly affectionate manner, contenting himself with the kiss that he gave me every evening before he put me to bed. I knew how to resist pity that my father aroused in me in his suffering at my determined rejection. I decided to denounce my father because Sig. Chiariotti, after he had heard my confidences, got me to understand that what my father did was dishonest and that it was my duty to denounce him to justice.³⁷⁶

Although there had been no violence, Ernesto was charged with *violenza carnale* and sentenced to eight years of prison. Probably, authorities decided to act in this way and accusing Ernesto of *violenza carnale* because a charge for incest would have meant accusing also the daughter. Nevertheless, this case shows how the 1890 code was inadequate: this was not a case of *violenza carnale*, but of incest without actual physical violence and without public scandal between two relatives whose power was unequal, namely father-daughter incest. This definition was that present in the previous Tuscan penal code, but, as we have already seen, had been applied only in seven trials.

Unlike the last deposition I mentioned, Maria's telling narrative was marked by violence. Her father admitted that he had had sexual intercourse with her, but denied the violence and added that she did not try to resist. Moreover, eager to justify his transgressions, he explained that 'he had been a widower for nearly fourteen years.' Usually, fathers denied having committed incest. In one case a man admitted he had bitten her daughter without having sex with her in order to teach her a lesson.³⁷⁷ The exceptional admission made by Antonio could be explained by a preference to be charged with incest rather than with *violenza carnale*, because of the milder penalty for the former crime, as well as the chance of acquittal given the authorities' clear preference for avoiding 'public scandal'. Antonio also added that Maria had already known men. Indeed, the girl had probably lied about this point. In her first deposition,

³⁷⁶ ASF, PA: 1915, b. 16, f. 8.

³⁷⁷ ASF, PA: 1886, b. 1218, f. 689.

she had stated she had never had sexual contacts with other men beyond her father. Nevertheless, later investigations proved it was not true: she had attempted intercourse with a married man. Probably, Maria lied because she knew what people expected to hear from her in order to be regarded as trustworthy and honest: she had to present herself as innocent, which meant her being ignorant about sex. Indeed, she also tried to justify her language, which was not 'childish', for example referring to her genitals in the proper way rather than using infantile language: what she knew was learned from the conversations of adult women.³⁷⁸ Apart from her lies, another element seemed to make Maria's deposition unreliable: her poor reputation. Her teacher said she was a liar; one of her neighbours told how she was never at home, and always out and about. In this trial the girl received nobody's support: neither relatives nor neighbours spoke for her.

Maria's medical report did not even seem to support her: her hymen was not totally torn, and while it was possible that a penis might have penetrated her, this might not have occurred. Doctors persisted in declining to take a clear stand and in writing very ambiguous reports. In one case, addressed in 1907, doctors refused to admit that the *violenza carnale* had taken place because of the absence of any clear physical signs on the body. As stressed in several trials in the course of the previous century, from the medical point of view, the rape of a child was improbable because her body was penetrated only with difficulty, and were intercourse to occur it would inevitably leave evident traces. In addition, doctors often wrote in their reports that not even venereal disease could be regarded as a proof because it could be transmitted indirectly by contacts with infected objects, 'above all in conditions of poor hygiene, characteristic of the working class'.³⁷⁹ This explanation of the contagion was widespread even in trials for incest addressed by the American courts at the end of the nineteenth century and it has been interpreted by Lynn

³⁷⁸ In an article published in 1989 Patrizia Guarnieri analysed the report written by the psychiatrist Giulio Cesare Ferrari in a trial for father-daughter incest dealt with by the secular court of Bologna in 1916. Guarnieri stressed that Ferrari believed the father not guilty because the daughter, who was thirteen years old, appeared to be *troppo sapiente*, too knowing, and she was able to discern 'between blood and another humour'. Her knowledge thus made her an accomplice in the crime. P. GUARNIERI, Giulio Cesare Ferrari e la psicopatologia in tribunale. *Padania*, 1989, 5-6, 192- 206.

³⁷⁹ ASF, PA: 1907, b. 2, II, f. 22.

Sacco as a way of avoiding to take a clear stand.³⁸⁰ Only in one case in Florence did doctors unequivocally state that there had been loss of virginity and *violenza carnale*, and it is significant that in this instance they insisted on seeing the girl on several occasions, produced a lengthy and extremely detailed report, and even included a picture of the torn-hymen.³⁸¹

Maria's untruths and bad reputation, together with the ambiguous medical report might lead us to suppose that Antonio was not convicted, or that both parties might have been charged with incest. Surprisingly, only the father was accused of violence, with abuse of authority towards a child under fifteen years and sentenced to twelve years and ten months of reclusion.

Antonio's conviction was not exceptional. From 1866 to 1914 the Corte d'Assise dealt with eighteen cases of father-daughter incest and, apart from two acquittals, they all ended with harsh penalties for the men: from a minimum of six years to a maximum of nineteen years of imprisonment. The charge was never 'incest', because there was no mutual agreement and sometimes there was not even a public scandal, but *violenza carnale* or *atti di libididine*, even though physical violence was not present in every case.

Considering the Florentine courts from 1786 to 1865 dealt with only ten cases of incest when there was abuse of authority and only three trials ended with a sentence, while the *Corte d'Assise* from 1866 to 1914 addressed eighteen cases of father-daughter incest and only two were the acquittals, it is clear that there was an evident change in the second half of the century: father-daughter incest cases were not only more and more frequently brought to the attention of the judicial authorities, but they were also more likely to result in punishment. Neighbours started to suggest the recourse to the police, and the latter began to pursue the abusers more energetically. The increase of cases addressed by courts in the second half of the nineteenth century has been

³⁸⁰ SACCO, *Unspeakable*, p. 107.

³⁸¹ ASF, PA: 1904, b. 2322, I, f. 2.

observed in other countries too, such as Germany, France, Sweden, and the United States.³⁸²

Nevertheless, trials were always very short and, as the behaviour of Maria's relatives and the role sometimes played by charitable institutions suggest, solutions that avoided the police and the courts were still preferred to those that made recourse to justice. In addition, eleven cases out of eighteen occurred in Florence and seven in the countryside.

Last but not least, the law did not deal with incest satisfactorily – and this is still true today: on the one hand, to be considered criminal, incest required public scandal and mutual agreement, elements mostly that were generally wanting; on the other hand, the crime of *violenza carnale* demanded evidence of physical violence, something which was by no means always present. Probably, even this inadequacy of the law could, and can, discourage the recourse to justice.

To conclude, it should be stressed that the law is today nearly unchanged and that prior to 2012 sons and daughters born from an incestuous relationship could not be legally recognised by their own parents: in other words, the latter's 'sin' relapsed on children. Behind this reluctance to change the law, lies the strenuous defence of the 'legitimate' Italian family.

³⁸² SACCO, *Unspeakable*. GIULIANI, *Monsters in the village*. Å. BERGENHEIM, Brottet, offret och förövaren. Om synen på incest och sexuella övergrepp mot barn 1850-1910 (The crime, the victim and the perpetrator: views of incest and sexual assault on children, 1850-1910). *Lychnos. Årsbok för idé- och lärdomshistoria*, 1998, 121-59. B. KERCHNER, Wohnungsnot und blutschande: zur historischen construction eines kulturellen stigmas (Housing shortage and incest: the historical construction of a cultural stigma). *Internationale wissenschaftliche korrespondenz zur Geschichte der Deutschen Arbeiterbewegung*, 2002, 38 (4), 421-454.

Conclusions

What do criminal records tell us about changes in the approach to sexual violence against children in Florence during the period 1786 to 1914? How did the outlooks of state institutions, society, and the family alter during the so-called century of childhood? In what ways were these changes positive or negative?

During the century the number of trials addressed by Florentine courts grew remarkably. This was true both for rape (whether of girls or boys) and for cases of incest, even though the rape of girls remained the most frequently reported crime.³⁸³ Nevertheless, it should be stressed that the increase in attention was principally within the urban context of Florence itself, and not the countryside. In addition, despite the significant increase in trials in the second half of the century, the overall number of cases remained very few. The inclination to resolve matters privately remained widespread, and only the failure of these methods or widespread public rumour and gossip or the discovery that the victim had contracted a venereal disease – itself often the initial cause of gossip – generally led to recourse to the authorities, sometimes with the aim of attaining some sort of public reparation. In addition, a crucial role in concealing cases of sexual violence appears to have been played by Florence's numerous charitable institutions, especially in cases in which the violence was inside home.³⁸⁴ Of course, it is sometimes hard to find evidence of the rôle played by such *istituti di beneficenza*, but it is possible to read between the lines, and the documents certainly contain hints. Thus, for example, in 1907, Maria, before going to police and accusing her father of sexual abuse, had been awaiting a place in a charitable institution promised her by the priest in whom she had confided.³⁸⁵

³⁸³ See Chart 2, p. 192.

³⁸⁴ See A. CELSO, *Istituti di beneficenza fiorentini*. Firenze: Tipografia Fratelli Bencini, 1866. C. ARRIGONI, *Istituti di beneficenza fiorentini*. Firenze-Roma: Tipografia fratelli Bencini, 1882.

³⁸⁵ ASF, PA: 1907, b. 2, II, f. 22 (Chapeter VII)

What, then, can be said of sentencing? The transformation that occurred during the course of the century is clear. While the *Supremo Tribunale di Giustizia* (1786–1808) usually did not convict defendants, the *Corte di Assise* (1866–1914) condemned the majority of men accused of having had sex with children.³⁸⁶ It should be underlined that at the end of the nineteenth century both in Italy and beyond the peninsula people began to become increasingly agitated and vocal about cruelty towards children. In 1880 the New York Society for the Prevention of Cruelty to Children (NYSSPCC) was founded. Four years later, its English counterpart was established: the National Society for the Prevention of Cruelty to Children (NSPCC). Child abuse in its various forms became a question of serious professional and public concern. In Italy too individuals such as Pio Viazzi, Zita Centa Tartarini and Giustino De Sanctis, started to complain about violence against children.³⁸⁷ Thus in 1911 Zita Centa Tartarini (under the pseudonym ‘Rossana’), a positivist and feminist who had officially inspected various houses of correction, denounced: ‘It is the task of the ruling classes to gather from the cobblestones of the public thoroughfares the vagabond and abandoned children under the age of fourteen who left to their own devices become the target of speculative calculation of perverts and the morally corrupted.’³⁸⁸ Giustino De Sanctis, the director of a reformatory in Pisa, wrote in 1896:

How does society – this great collective – protect childhood in Italy? So far, poetically; in other words, it plunges into discussion but does very little [...]. We have to educate and protect young people, sons of the nation (patria)! They are the desire and the goal of the existence, the smile that lights up households; they have to be the workers of our factories, the creators, the scientists who follow our former glories; they are the bulwark of the nation!³⁸⁹

³⁸⁶ See Chart 3, p. 193.

³⁸⁷ As for Pio Viazzi, see Viazzi, *Sui reati sessuali*, pp. 12–14.

³⁸⁸ ROSSANA, *Sotto la ferula. Dolore, povertà, degenerazione muliebre*. Torino: Fratelli Bocca Editori, 1911, p. 43.

³⁸⁹ G. DE SANCTIS, *Educazione e protezione dei fanciulli*. Milano: Tipografia Wilmant di L. Rusconi, 1896, pp. 52, 70.

These last words are revealing of what I think was the real reason that drove both governments and judges at the end of the nineteenth century to protect children. The new sensitivity shown towards children did not prove that children's rights were becoming central, but that governments were more and more interested in shaping a healthy population. In Italy this became especially significant in consequence of national unification. Put at its simplest, children were the main resource of the nation. The principal concern was not about children's rights, but about the welfare and reputation of the nation, a fact that was confirmed by law through the abolition of the bringing of charges *ex officio*, by the virtue of office. Families had the right of choosing whether or not they brought charges against those individuals who sexually abused their children. The Liberal state decided to intervene – trespassing beyond families' boundaries – only when the violence occurred in a 'public space' or when incest provoked 'public scandal'; in other words, only when the 'public' and the respectable image of the Nation was in danger. The presence in law of these concepts was doubtless the proof of a specific political will, namely that of the Liberal *régime*, which should not be neglected. Nevertheless, I have the impression that at the end of the nineteenth century long-standing judicial practices simply came to be incorporated into law. As I stressed in the first chapter, police constables of the Grand Duchy, although they were empowered to make charges by virtue of office, rarely encroached families' boundaries, and usually started investigations only after parents had complained. Let me repeat the words the President of the *Supremo Tribunale di Giustizia* pronounced in 1786 before formulating the final sentence of a case of sexually assaulted child: 'Although it should be better that these crimes stay in the dark of the confessional where the dispensation is given, if they come to light even through unreliable means, the judge is obliged to punish them in an exemplary way. This works especially in this case in which people were caught red-handed, which could only have resulted in public scandal.'³⁹⁰ In addition, although the *Codice penale toscano* since 1853 had not required 'public scandal' to persecute incest, I showed in Chapter Six that the eight cases that saw the application of this law reached the court after those involved had first

³⁹⁰ ASF, STG: 203 (trial n. 54). (Chapter I).

tried to solve the affair privately, but unsuccessfully, or after public rumours, and consequently scandal, could no longer be ignored by the authorities.

What I am arguing is that judicial practices throughout the century show that officers of the law usually did not trespass in family affairs, but paid special attention to what became 'public'. Obviously, it should not be underestimated that some habits became law with the Liberal state because they matched a specific political will not to invade the private sphere. It should be emphasised that there was one significant novelty in the 1890 code. Namely that the defence of the 'public space' together with the condemnation of 'public scandal' in cases of incest were now strictly tied to a dominant legitimating concept: the honour of the Nation. Children's rights were without doubt now subordinated to – or conceived of – in terms of this overarching good. In other words, when judges in the Florentine *Corte d'assise* formulated sentences or passed judgement, they believed that they were participating in a process of nation-building.

The single biggest change I detected over the century is the emergence in courts of the admissibility of child rape – both of girls and boys – even if this change was arrived at by slightly different routes for boys and girls. Because the body, and its penetration/violation, were central to declaring that rape had taken place, and because doctors usually stated that the penetration of the body of a young girl was difficult, if not impossible, until the middle of the nineteenth century men accused of having had sex with girls under twelve were charged with the 'attempted rape' or *mollizie/atti impudici*. These were minor crimes, with milder penalties, in comparison with violent rape or *violenza carnale*. The latter appeared improbable in courts. In addition, doctors asserted that if the penetration unexpectedly occurred, it would have left clear and enduring physical signs on the girls' bodies. This belief explains the gulf between a law that did not require evidence of violence to consider sex with girls under twelve as violent rape and a judicial practice that was always looking for physical signs of the violence. There was a huge gulf between the legal code and generally-accepted medical opinion. Despite the fact that medical assumptions appear not to have changed throughout the century, the

Corte d'Assise from the beginning of its activity in 1866 started convicting many defendants for *violenza carnale* and no longer merely for *atti di libidine*. In other words, only in the second half of the nineteenth century, did the rape of girls become a judicial reality for the first time, despite the fact that since the early modern era it had been on the statute books, and had established harsh penalties for the crime.³⁹¹ For boys, the process was to some degree different. Except during the French parenthesis, the law recognised sexual violence towards boys only in 1853. Nevertheless, the court that started applying the 1853 code, namely the *Tribunale collegiale di Prima Istanza*, usually convicted defendants for *atti di libidine* and not for *violenza carnale* in the same way as it did for girls. Courts seemed to believe that it was almost impossible for boys to be raped, just as they were reluctant to credit that young girls could be penetrated. Probably, this was due to the same medical assumption applied to male children's bodies. It is worth repeating the words pronounced in 1811 by the two doctors who visited Luigi: 'we do not believe the boy has been ravished in the quoted part (Luigi's backside), because if a child so young had been assaulted, there would be very clear physical evidence of his having suffered violence.'³⁹² Nevertheless, as was the case with assaults on girls, from 1866 onwards men accused of having sexually assaulted boys under twelve started being charged with *violenza carnale*. To sum up, only from the middle of the century did courts accept the reality of child rape.

What then of the medical profession? Although throughout the first half of the century, they were duty-bound to report the judicial authorities any cases of girls who had signs of physical changes to their genitals or they had been infected with venereal diseases, few trials were initiated after the police received medical reports. Doctors and, indeed, midwives appeared to be largely complicit in the silence that surrounded sexual crimes. Emblematic of this behaviour was the story involving Maria Assunta in 1796 and that I described in Chapter Six. The entire village where she lived, Margherita a Montici, believed she was expecting a child by her brother-in-law, but the midwives who first treated her in Florence and doctors who later saw her in the hospital

³⁹¹ See Chart n. 4, p. 193.

³⁹² ASF, TPIC: 37 (trial n. 1007). (Chapter IV)

of Orbetello testified that her stomach bulged, but there were no traces of pregnancy.³⁹³ In addition, apart from asserting that children's bodies were penetrated with difficulty, throughout the century doctors appeared reluctant to take a clear stand and to confirm sexual acts, especially with where girls were concerned. When the hymen was declared torn, they pointed out that it might have been torn by a variety of solid objects ('fingers or a piece of wood') and sometimes, although not always, they added 'not excluding a penis'. By contrast, with boys at the end of the century they were happier to testify unequivocally to sexual assault (See Chapter V). As for girls, venereal diseases were not seen as probable or even possible proof of having had sex; doctors usually explained that the contagion could occur also by indirect means, namely the contact with infected bodies, 'above all in conditions of poor hygiene, characteristic of the working class'.³⁹⁴

If those in authority – judges and members of the medical professions – held these views, what of the people involved in these trials who belonged to the lowest social classes: above all, farm labourers, textile workers, innkeepers, craftsmen and servants? How are we to explain the near total absence of people coming from the upper social classes?³⁹⁵ First, this absence might be explained by the ready availability of financial means to reach private settlements. Either the abusers paid for silence or because the families of the victims paid to hide the story and save the honour (see, for instance, the example of Maria in 1790: before the police were informed of the rape, her father's master wanted to pay a doctor to treat the child without writing any medical report that could be a proof of the violence the girl had suffered).³⁹⁶ Second, we have seen that officers of the law usually supported private settlements: if they acted in this way with people who belonged to the lowest classes, presumably they fostered private solutions with people coming from the upper classes too. This is especially probable given that most officers of the law associated the wealthy élites with the embodiment of morality and legality. Last, but not least, in the second half of the century especially, the upper classes, the so-called *patrizi*,

³⁹³ ASF, STG: 443 (Trial n. 265). (Chapter VI)

³⁹⁴ ASF, PA: 1907, b. 2, II, f. 22 (Chapter III)

³⁹⁵ See Tables 5 and 6, pp. 194-195.

³⁹⁶ ASF, STG: 268 268 (trial n. 111). (Chapter I)

but also the growing class of bureaucrats and other wealthy professions, might have felt the duty of embodying the ideal Italian man who had to be honest, disciplined and sexually self-controlled: in other words, they could not be involved in trials for sexual violence against children; the personal and the national shame was simply too great. In addition, as Maria Casalini points out, the ‘bourgeois model’, that wanted private life hidden inside home whose doors should be closed to external or indiscreet eyes, was gaining ground among the upper classes in Florence in the second half of the century: private lives should remain private.³⁹⁷ Paradoxically, as Lynn Sacco stressed with reference to the United States, poor children received greater protection from the justice system.³⁹⁸ It goes without saying that the absence in courts of wealthy persons and the growth of charges in towns supported the impression of those who believed moral and sexual depravity was an urban phenomenon tied to poverty. The above mentioned Zita Centa Tartarini wrote:

Society in the great urban centres consists of many distinct circles that have no relationship or dealings with one another: railwaymen, tram-drivers, wagoners, builders etc; these do not know one another; this situation permits vice to grow undisturbed and to fester until the point of depravity. After a hard day of work, these individuals easily find unsavoury nocturnal pleasures; prostitution that brings with it young boys and girls whose bodies are ravished [...]. Women belong to everyone, while indolence, degeneration, perversion and alcohol lead all the young people who have the misfortune to grow up in this environment to incest and sodomy.³⁹⁹

It is time to recapitulate on the way that these craftsmen, textile workers, farm labourers and servants behaved when involved in trials. First of all, I described in the third chapter the crucial role played by neighbours. They

³⁹⁷ M. CASALINI, *Servitù, nobili e borghesi*, p. 108.

³⁹⁸ SACCO, *Unspeakable*, p. 142.

³⁹⁹ ROSSANA, *Sotto la ferula*, pp. 71-72. As Patrizia Guarnieri points out, Zita Centa Tartarini started complaining about poor children's conditions of life. Nevertheless, her considerations were not produced by a general reflection on children's rights, but by her experience in the houses of correction. She belonged to the positivist culture that was far from regarding children as innocents. P. GUARNIERI, *La fanciulla pericolante: teorie psichiatriche e giuridiche in Italia tra '800 e '900*. In: M. PRANDI, ed. *Incesto. Atti a cura di Marta Prandi. Seminario 9-10 maggio 1992*. Roma: Cooperativa Libera Stampa – Noi Donne, 1992, p. 40.

applied social pressure on individuals by checking on their behaviour, and they were the most important witnesses in courts; they were questioned about the morality and conduct of both the injured parties and the defendants and through their opinions they could affect the outcomes of trials. Nevertheless, the abuser also was often from the same neighbourhood as the victim. Defendants were usually men with whom the injured parties were familiar; sometimes they lived in the same house as the victim.⁴⁰⁰ In the majority of cases girls were sexually assaulted by men who were much older; boys were usually violated by young men; girls who were victims of incest were frequently abused by widower fathers.⁴⁰¹ While girls were much more subject to sexual aggressions in 'domestic' spaces, boys were in the majority of cases assaulted in streets or in their place of work by their masters or co-workers. In other words, as gendered power relations made daughters victims of their own fathers, another kind of same-gender hierarchy, that as I have shown in the second part had distant roots, made boys sexually accessible to their young male masters or colleagues.⁴⁰²

Defendants, when they did not deny the charge, tended to suggest that only lewd acts had taken place, as such sexual contact with children was to a degree tolerated, or, in cases involving girls, they sought to mitigate the crime by accusing the girls of having been *maliziose* and of having seduced them. After all, as a woman said in trial 'everyone knows that if you put a flame to tinder, it will catch fire easily'.⁴⁰³ Obviously, my 'after all' is ironic, but I find this popular proverb representative of the widespread image of the man unable, and consequently innocent, to control his sexual instincts in front of a seductive girl or woman.⁴⁰⁴

The charge of being *maliziose* turned girls into the party who had to demonstrate that they were 'innocent'. Indeed, investigations were focused on

⁴⁰⁰ See Chart 7, p. 195.

⁴⁰¹ See Tables 8 and 9, pp. 196-220.

⁴⁰² 'Sexual coercion was a gendered act of power but was never divorced from other hierarchies'. S. BLOCK, *Rape and sexual power in early America*. Chapel Hill: University of North Carolina Press, 2006, p. 12.

⁴⁰³ ASF, SGT: 443 (Trial n. 265).

⁴⁰⁴ I developed this topic in Chapter III. Unfortunately, this image has not disappeared and sometime it appears in books, such as THORNILL, PALMER, *A natural history of rape*.

them as they were the real defendants. How could they show their innocence? As I have largely explained in the first part, they had to prove that they did not possess any sexual experience. Their reputation as moral girls was essential. Nevertheless, they had also to show that they possessed no sexual knowledge. Innocence was clearly a synonym of ignorance about sex and *malizia* was the opposite, namely the knowledge of sex. The most important proof of being innocent was ignorance of sexual language: they had to use inaccurate words to describe sexual organs and the assault. Girls appeared to be aware of these expectations: they knew they had to be innocent to be trusted and that only innocent girls deserved to be protected. Sometimes it clearly comes out their agency and their attempting of constructing a ‘narrative of innocence’.⁴⁰⁵ How have I detected this awareness? Sometimes the girls concerned changed their vocabulary, switching from being accurate to become inaccurate. Obviously, their language could be modified by officers who transcribed depositions, but also in this case the aim of the variation did not change even if it came from officers: probably, the latter wanted to support these girls because in so doing they fulfilled the expectations about children’s ignorance about sex and innocence.⁴⁰⁶ Another proof of their awareness was given by the occasions in which they tried to justify their knowledge. For instance, Adelaide in 1834 stated: ‘I knew I was doing bed things because I did more than one Holy Communion and the priest told it was wrong to touch and to let someone else touched down below.’⁴⁰⁷ In 1907, Maria in her deposition explained she was able to understand her father’s intention of having sex with her ‘from conversations she had heard from women.’⁴⁰⁸ They were also aware that sexual knowledge and experience, even if acquired against their will, made them corrupted and dangerous girls. The above-mentioned Adelaide in 1834 said to her sexually-abusive grandfather: ‘you have taught me the *malizia* [...] tomorrow I will go to a cloister. I have committed a sin, but now I will enter a nunnery.’⁴⁰⁹

⁴⁰⁵ The expression ‘narrative of innocence’ is used in S. SZRETER, K. FISHER, *Sex before the sexual revolution: intimate life in England, 1918-1963*. Cambridge: Cambridge University Press, 2010, p. 64.

⁴⁰⁶ See Chapter III.

⁴⁰⁷ ASF, RC: 561 (Trial n. 17). (Chapter VI)

⁴⁰⁸ ASF, PA: 1907, b. 2, II, f. 22. (Chapter VII)

⁴⁰⁹ ASF, RC: 561 (Trial n. 17). (Chapter VI).

From depositions it emerges that the belief that childhood and innocence meant not having sexual knowledge was shared by many, not only by lawyers and judges. Sometimes parents or other relatives declared they avoided asking questions of the sexually assaulted children in order not to teach them *malizia*. In other words, they did not want to introduce them to sexual notions.⁴¹⁰ It is worth repeating the words pronounced in 1834 by a woman living close to Maria who accused Isidoro of rape (chapter II): ‘I started to have a bad opinion about her [...] Wouldn’t you know if this girl doesn’t have *malizia*; but the origin is given by her mother who wanted her to behave as an adult woman. Both the profession of midwife and people that usually frequent that house, you can understand ... I heard she has a room available for people who want to use it. So I let you conclude if this girl has or not *malizia*.’ In this deposition it is very clear what *malizia* was, and consequently what its opposite – innocence – was. Maria had sexual knowledge (her mother was a midwife and thus knew about bodies; people said they had a room in their home used probably for illegitimate affairs); having sexual knowledge meant loss of innocence and consequently childhood (Maria was like ‘an adult woman’); becoming a knowing girl meant being corrupted and dangerous (the woman asserted: ‘I started to have a bad opinion about her’).

There were certain similarities for boys. Certainly in the first half of the century their level of sexual knowledge also appears to have been evaluated. For instance, in 1797, Luigi responded to the questions of officers of the law who tried to understand his sexual knowledge, by answering categorically and with some evident fear: ‘I don’t know anything.’⁴¹¹ Yet in the second half of the century investigations were more focused on the defendants and no one in court stressed the accurate language used by boys.⁴¹² Julia Grant in an article entitled ‘A “Real boy” and not a sissy’ points out that at the end of the

⁴¹⁰ See Chapter I, p. 36 and Chapter VI p. 141.

⁴¹¹ See Chapter IV.

⁴¹² As I explained in Chapter V, probably investigations were more focused on the defendants because officers of the law wanted to regulate men’s sexual behaviour and they were involved in the Western process of construction of the ‘ideal man’ who was doubtless heterosexual.

nineteenth century childhood started being more gendered:⁴¹³ Is the loss of sexual considerations in the definition of boys' innocence a proof of this more gendered childhood? Conversely, a suspicion expressed by officers of the law throughout the century with regard to both girls and boys was that they were easily prone to lie. Indeed, during investigations, people were often asked if they believed the injured child 'capace di dire la verità', 'able to say the truth'. As Patrizia Guarnieri have already shown in *L'Ammazzabambini*, even if the ideal image of the child was that of the 'innocent', in practice people and judges were far from regarding children as 'angels'.⁴¹⁴ Moreover, as I explained in Chapter Three, this suspicion of being liars became stronger in front of girls and above all in the case of girls from the lowest social classes; as the already mentioned Tuscan proverb stated: 'a woman, no matter how small, beats the devil when it comes to low cunning.'

To sum up, over the so-called century of childhood there was in Florence a clear increase of cases of sexual violence towards children that were reported to justice. In addition, while at the beginning of the century defendants were usually not convicted, at the end of the century convictions became more usual. Moreover, if in the first half of the century rape of children appeared to be unrealistic in courts, from the middle of the century onwards judges started admitting the possibility that children could be raped. Nevertheless, these significant changes should not be understood as a growing sensitivity to children's rights, but as a major interest in shaping a healthy and moral population. Last but not least, it should be taken into account that throughout the century only people from the lowest social classes were involved in trials, and children were always suspected of being lying and, above girls, of being *maliziose*, and consequently accomplices in the crime.

Unfortunately, this thesis missed some data that I would have liked to find. I spent many months in the archive often failing to find any cases at all, sometimes with the feeling that I was 'looking for a needle in a haystack'. I

⁴¹³ J. GRANT, A 'real boy' and not a sissy: gender, childhood and masculinity. *Journal of Social history*, 2004, 37 (4), pp. 829-851.

⁴¹⁴ P. GUARNIERI, *L'ammazzabambini. Legge e scienza in un processo di fine Ottocento*. Bari: Laterza 2006, pp. 80-81.

would like in the future to try to undertake research on the biography of individual judges, above all those, such as Giuseppe Stradetti, who showed an unusual sensitivity to children. Additionally work remains to be done on doctors who wrote medical reports as some names were recurring. Quite simply constraints of time meant that I could not do this work, although I hope it might be possible in the future. Other possible avenues of research have become clear to me. I would also have liked to analyse other primary sources, like trials the religious courts dealt with to make a comparison with the secular courts, or local newspapers to check if some cases were known by a wider range of persons and how they were recounted. It would be also interesting too to make a comparative analysis of trials involving girls and boys between twelve and sixteen as there were laws aimed to protect this stage of life, and it might permit us to try to understand nineteenth-century conceptions of the differences that marked childhood and ‘adolescence’. This is all work that I hope to undertake in the future.

I want now to conclude with some reflections on innocence that go beyond my historical research. As the social scientist Jenny Kitzinger points out, the ‘myth of the innocence’ related to childhood is still alive often with dangerous consequences. Sexual abuse of children is nowadays often presented as a ‘violation of innocence’ or as something that ‘robs children of their childhood’. Behind these definitions there is an assertion of what childhood ‘really’ is, or should be, namely a carefree time of play, an asexual and peaceful stage of life. Innocence is the main quality that the sexual abuser steals. Nevertheless, if the violation of innocence is the criterion against which the act of sexual abuse is judged, than does violating a “‘knowing’” child become a lesser offence than violating an “‘innocent’” child’?⁴¹⁵ After all, the knowing child has already lost what could be stolen. The knowing child Jenny Kitzinger writes about might be regarded as the successors of the *maliziose* girls that populate my work and, as I have shown, violating a *maliziosa*/knowing child could be a lesser offence than violating an innocent.

⁴¹⁵ J. KITZINGER, Who are you kidding? Children, power and the struggle against sexual abuse. In JAMES, PROUT, ed. *Constructing and reconstructing*, pp. 162-164.

Another dangerous consequence of the ‘myth of innocence’ is ironically of being sexualised. In other words, ‘the child, like a virgin woman, can be the object of a male desire to corrupt what is as yet uncorrupted.’⁴¹⁶

It is naive thinking that children do not wonder about sex. As David Archard stressed, the ability to assimilate and understand sexual information is not related to sexual ‘preparedness’, but to the general cognitive development.⁴¹⁷ In the absence of explanations by adults, children are quick to construct their own explanations that might be misleading. In the Italian case, already in 1911, the well-known positivist jurist Lino Ferriani wrote:

Can one really believe that, having reached the difficult period of adolescence, the young man, the girl on the cusp of womanhood, can really be ignorant of the sexual life so pivotal to the reproduction of the species? Must their parents still lie, telling stupid fairy tales in their presence? Their children despise the parental lies, which they nevertheless pretend to believe (thus feeding hypocrisy) and learn from others and in a depraved fashion.⁴¹⁸

Not only does making sex a taboo topic for children mean the risk that they acquire misleading knowledge, but it also develops within them the sense that sex is something about which one is expected to feel guilty. As Judith Ennew wrote in the 1980s, children experience sensory pleasure through actions, such as sucking, skin stimulation or genital touching, but they do not give to this pleasure social meaning until they receive information from adult attitudes and language.⁴¹⁹ This is why it is important to give children explanations that are not misleading and which do not make sex the ‘evil’. It goes without saying that knowledge about their bodies and sex can provide children also with an awareness that can protect them from possible abuser as they would be deceived with more difficulty.

⁴¹⁶ D. ARCHARD, *Children: rights and childhood*. 2nd ed. London: Routledge, 2004, p. 105.

⁴¹⁷ *IBID*, p. 106.

⁴¹⁸ L. FERRIANI, *Donne e fanciulli. Studi di vita sociale*. Roma: Enrico Voghera Editore, 1911, p. 55.

⁴¹⁹ J. ENNEW, *The sexual exploitation of children*. Cambridge: Polity Press, 1986, p. 25.

To conclude, the category of innocence needs to be deconstructed; in other words, to be put on trial.

Appendix

Glossary

<i>Atti sospesi/Processo aperto</i>	These phrases were synonymous and they meant the trial was interrupted waiting for further evidence or proofs.
<i>Atti impudici / Atti di libidine</i>	Lewd acts
<i>Confino</i>	Forced confinement usually in the form of banishment to a remote village rather than imprisonment
<i>Ex-officio</i>	In the common sense <i>ex officio</i> refers to powers that, while not expressly conferred upon an official, are necessarily implied in the office. In the Italian legal systems that I am describing here, <i>procedura ex officio</i> means a criminal prosecution brought by virtue of office, in other words by the judicial authorities without the necessity of the charge expressed by the injured party
<i>Lavoro pubblico</i>	Hard labour, a form of ‘penal labour’ or ‘penal servitude’
<i>Lenocinio</i>	Fostering prostitution
<i>Mollizie</i>	Lascivious behaviour
<i>Non luogo a procedere</i>	No grounds for proceeding
<i>Stupro semplice</i>	Sexual intercourse with a virgin or a widow, allegedly seduced by a marriage proposal, not followed by marriage
<i>Ultimo supplizio</i>	Life imprisonment
<i>Violenza carnale</i>	Violent rape
<i>Viripotente</i>	Girl able to have sex with men; usually, after menarche.

Penal codes

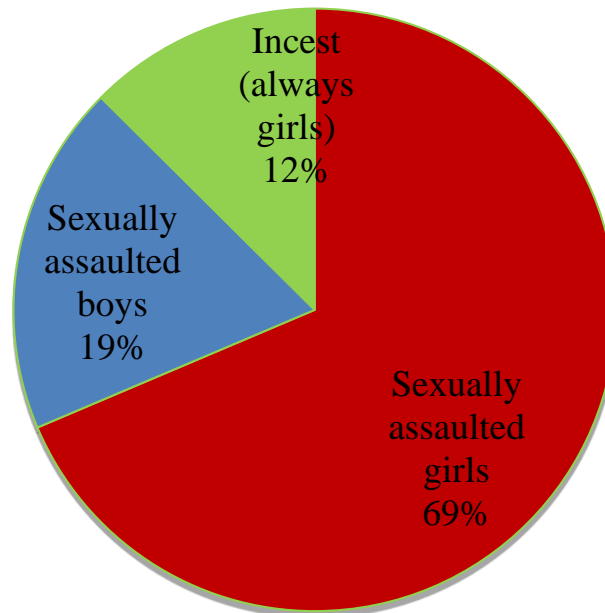
	Girls under Twelve	Boys under Twelve	Incest
Codice Leopoldino (1786-1808; 1814-1853)	<p>Art. XCIX. Public labour for a certain time shall be the punishment of rape, without violence, on a virgin not yet arrived at the age of puberty, if it is consummated; but if it has only been attempted, the punishment shall be banishment or confinement, according to the degree and nature of the attempt, and a constant financial support to the young women, not only on account of the injury, but of the honour associated with it.</p> <p>Art C. Those guilty of lewd and improper acts, even those abhorred by nature, will be punished by a non-public lashing.</p>	<p>Art. XCVI. Men guilty of adultery, bigamy, sodomy, and the crime of bestiality will be punished by the <i>ultimo supplizio</i> and women through twenty years in the house of correction.</p>	<p>Art. XCVI. Incest, if it be between father, mother, sons, brothers and sisters, brothers and sisters- in-law, shall be punished by ten years hard labour for men, and in women by the house of correction for five: if it be between uncles/aunts, nephews/ or nieces, or first cousins, we leave the punishment to the decision of the judges, but it shall never be so great as hard labour.</p>
Codice penale francese (1810-1814)	<p>Art. 331. Whoever has committed the crime of rape or is guilty of any other indecent assault committed or attempted with violence towards people of both sexes will be punished with detention.</p>		<p>Art. 333. Forced labour for life in the rape is committed by someone in a position of authority over the victim of the crime.</p>

	Art. 332. When the crime has been committed against someone under fifteenth, the felon will be punished with enforced works for a certain time.	
Codice penale toscano (1853-1890)	<p>Art. 280. Whoever by means of violence abuses for sexual purposes another person of either sex commits the crime of <i>violenza carnale</i>.</p> <p>Art. 281. <i>Violenza carnale</i> is punished by four to eight years of imprisonment in the case of an independent woman; and from six to twelve years for a man.</p> <p>Art. 282. Any other act of lust committed with violence by a person of either sex, whenever it does not constitute an attempt at <i>violenza carnale</i>, which merits a stiffer penalty, incurs one to five years in gaol.</p> <p>Art. 283. Subject to the punishment, prescribed in art. 281, or respectively to that prescribed in art. 282, are also whoever commits abuse, or any other lewd act [...] b) on a person [...] who has not reached twelve years of age or is mentally retarded.</p>	<p>Art. 294. Incest committed by those of the same ascendant and descendant bloodline is punished with prison for three to six years in the first instances, and eighteen months to four years in the second.</p> <p>Among ascendant and descendant relatives by marriage [it is punished] with prison for one to three years in the first instances, and six months to two years in the second.</p> <p>Art. 295. Adoptive fathers and guardians who have respectively abused their daughters or their female charges are to be punished with one to three years in gaol.</p>
Codice Zanardelli (1890-1914)	<p>Art. 331. Whoever with violence or menaces forces another person of either sex into an act of carnal congress is punished with imprisonment from three to ten years.</p> <p>To the same punishment is subjected anyone who has carnal congress with someone of either sex, who at the moment of the act:</p> <p>1. has not reached twelve years of age;</p>	<p>Art. 331. Whoever with violence or menaces forces another person of either sex into an act of carnal congress is punished with imprisonment from three to ten years.</p> <p>To the same punishment is subjected anyone who has carnal congress with someone of either sex, who at the moment of the act:</p> <p>1. has not reached</p>

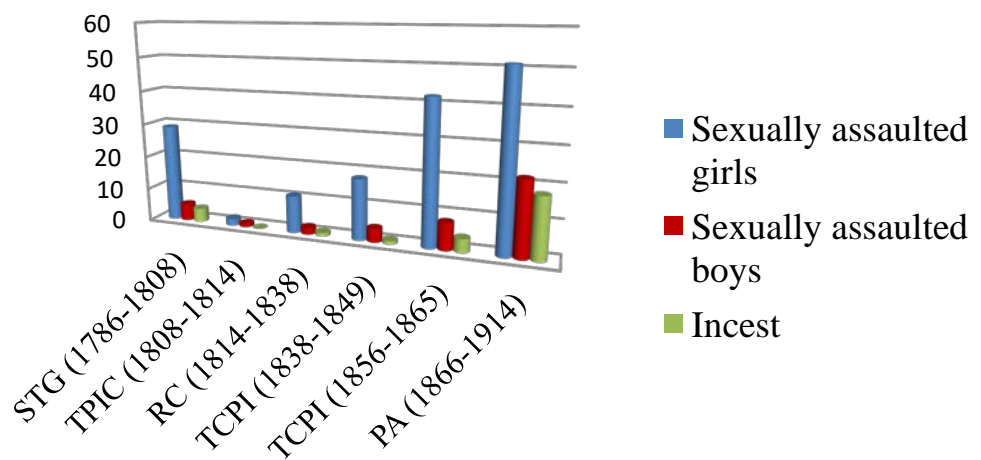
	<p>Art. 333. The conduct of an individual who, without bringing carnal congress to completion, forces someone to submit to violent ‘acts of lust’ is subject to sanction. Moreover, the violence can be presumed on the basis of the criteria and with the same aggravations as that above.</p>	<p>twelve years of age; 2. has not reached fifteen years of age, if the guilty party is their ascendant relative, tutor, or school teacher. [...]</p> <p>Art. 332. When one of the facts foreseen in the first part and in numbers 1 and 4 of the opening paragraph of the preceding article is committed with abuse of authority, of trust or of domestic relationships, the guilty party, in the case foreseen in the first part, is punished with imprisonment from six to twelve years; and, in the other cases, with imprisonment for eight to fifteen years.</p> <p>Art. 337. Whoever, in a manner that generates public scandal, has an incestuous relationship with a descendant relative, including an illegitimate one, or with a relative by marriage in direct line, or with a sister or brother, whether of the same parents, by blood or blood, is punished with imprisonment of between eighteen months and five years, and with the temporary ban on holding public office.</p>
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Charts and tables

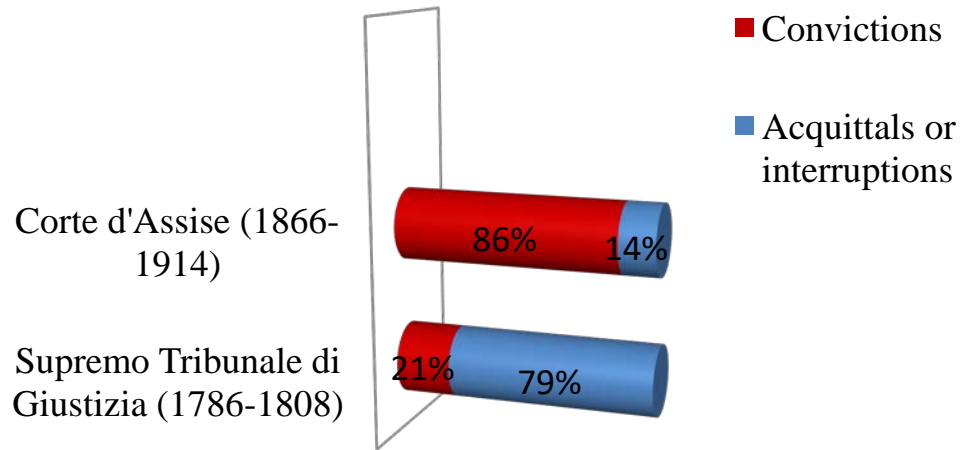
1. Trials, 1786-1914 (percentage of 223 cases)



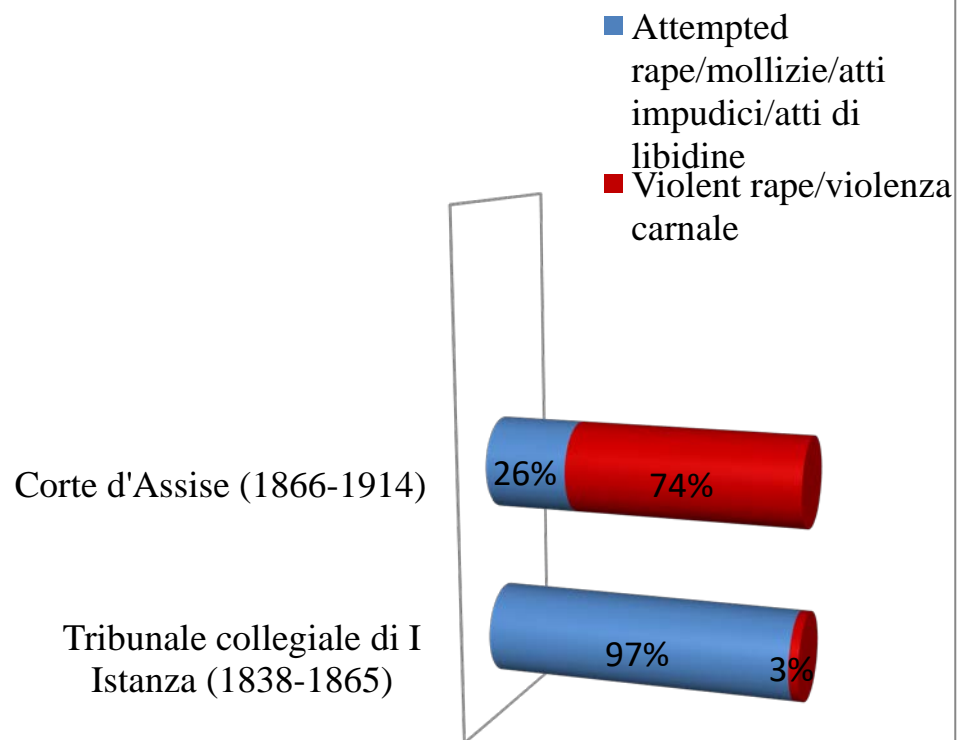
2. Increase in trials



3. Changes in the outcome of trials



4. Girls' assaillants convictions.



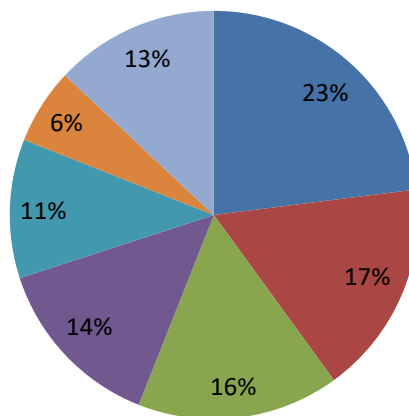
5. Occupations of defendants		
	Number	Percentage
Farmers (e.g. peasants, farm labourers, stablemen, livestock breeders)	53	26%
Textile workers	9	4%
Craftsmen (e.g. stone cutters, carpenters, shoemakers, hairdressers)	50	25%
Merchants and traders (e.g. Soap merchants, cigar sellers, wine sellers, rag merchants, bakers)	39	19%
Servants/carriers/dockers	15	7%
Shop assistant (<i>garzoni</i>)	13	6%
Teachers, book keepers, Typographers	7	3%
Other jobs	15	7%

6. Parental occupations (sample of 54 fathers and 29 mothers)		
Fathers' occupations		
	Number	Percentage
Farmers (e.g. peasants, farm labourers, stablemen, livestock breeders)	25	46%
Craftsmen (e.g. carpenters, shoemakersbricklayers)	14	26%
Merchants and traders (e.g. bakers, milliners, coal merchants)	6	11%
Servants/ porters	7	13%
Other jobs	2	4%

Mothers' occupations		
	Number	Percentage
Farmers	5	17%
Textile workers (e.g. weaver, seamstress, ribbon makers)	14	48%
Merchants and traders	3	11%
Housekeepers (attendente a casa)	4	14%
Other jobs	3	10%

7. Relationship between children and defendants (sample of 95 trials)

- Living in the same village ■ Flatmates
- Parents' coworkers ■ Neighbours
- Teachers ■ Parents' friends
- Indefinite, but familiarity



8. Sexual violence against female children (1786-1914)

Supremo Tribunale di Giustizia (1786-1808)					
Year	Defendant	Injured party	Place	Charge	Sentence
1787	Antonio C., 60 years old, living at San Gimignano, haberdasher	Margherita G, eight years old, apprentice weaver	Fiesole	Attempted rape of a virgin not <i>viripotente</i>	Withdrawal of the charge
1788	Giuseppe N. and Giuseppe C.	Annunziata M., ten years old	Florence	Attempted rape of a virgin not <i>viripotente</i>	<i>Atti sospesi</i>
	Unknown	Maria Anna M., nine years old, apprentice weaver	Florence	Rape of a virgin not <i>viripotente</i>	<i>Atti sospesi</i>
	Angelo N., 24 years old, jeweller	Orsola V., ten years old, seamstress	Florence	<i>Mollizie</i>	Acquittal
	Antonio B., 45 years old, servant	Maria Anna N., nine years old, silk worker	Florence	Attempted rape of a virgin not <i>viripotente</i>	Withdrawal of the charge
	Unknown	Maddalena M., seven years old	Florence	<i>Mollizie</i>	<i>Atti sospesi</i>
1790	Natale B., 37 years old, married, woodcutter	Maria B., eleven years old, servant	Florence	Rape of a virgin not <i>viripotente</i>	<i>Atti sospesi</i>
1794	Unknown	Luisa P., eight years old, seamstress	Florence	Rape of a virgin not <i>viripotente</i>	<i>Atti sospesi</i>
	Francesco F. 40 years old, married, scrap merchant	Assunta B., twelve years old, ribbon maker	Florence	Rape	<i>Atti sospesi</i>
	Valentino P., 35 years old, married, innkeeper	Carolina P., nine years old	Florence	Rape of a virgin not <i>viripotente</i>	<i>Atti sospesi</i>

1795	Antonio M., 41 years old, married, painter	Maria G., eight years old.	Florence	Attempted rape of a virgin not <i>viripotente</i>	<i>Atti sospesi</i>
	Unknown	Teresa B., eleven years old, ribbon maker	Florence	Rape of a virgin not <i>viripotente</i>	<i>Atti sospesi</i>
1796	Carlo M., 25 years old, craftsman	Carolina and Maddalena B., eleven and nine years old	Florence	Rapes of immature virgins	three years of <i>confino</i> in Grosseto, costs of the trial and financial support to the injured parties
	Gaetano P., 19 years old, unmarried, butcher's boy	Maria M., ten years old	Florence	Attempted rape of a virgin not <i>viripotente</i>	<i>Atti sospesi</i>
1797	Romoaldo B., 19 years old, unmarried, carriage maker	Maria Maddalena B., nine years old, apprentice weaver	Florence	Rape of a virgin not <i>viripotente</i>	<i>Atti sospesi</i>
1798	Mattia D., 63 years old, married, shopkeeper	Assunta M., nine years old, seamstress	Florence	Rape	No grounds for proceeding
1801	Pietro M., 48 years old, unmarried, servant	Gaetana M., seven years old	Florence	Rape	One month of prison and five years of banishment from the Grand Duchy of Tuscany, costs of the trial and financial support to the injured party
	Giovanni R., 18 years old, unmarried, shop boy	Luisa S., seven years old	Florence	Attempted rape of a virgin not <i>viripotente</i>	<i>Processo aperto</i>

1802	Gaetano F., 17 years old, unmarried, tramp	Teresa G., nine years old	Florence	Violent rape of virgin not <i>viripotente</i>	<i>Atti sospesi</i>
	Unknown	Assunta M., six years old	Florence	Rape of virgin not <i>viripotente</i>	<i>Atti sospesi</i>
	Giacinto B., 24 years old, married, alabaster craftsman	Maddalena F., six years old, apprentice weaver	Florence	Rape of virgin not <i>viripotente</i>	<i>Atti sospesi</i>
1803	Michele Q., 25 years old, unmarried	Maddalena B., twelve years old	Florence	Rape of virgin not <i>viripotente</i>	<i>Atti sospesi</i>
	Giuseppe C., 40 years old, married, shop assistant	Stella S. eight years old	Florence	Attempted violent rape	<i>Atti sospesi</i>
1804	Angelo O., 27 years old, married, servant	Maria A., ten years old	Florence	Rape of virgin not <i>viripotente</i>	Three years of <i>confino</i> in Volterra, costs of the trial and financial support to the injured party
	Gaetano M., 28 years old, unmarried, litter bearer	Annunziata C., six years old	Florence	Rape of virgin not <i>viripotente</i>	Five years of banishment from the Grand Duchy of Tuscany, costs of the trial and financial support to the injured party

	Giovacchino G., 24 years old, and Cosimo G., 30 years old, both unmarried, makers or sellers of soaps.	Assunta B., twelve years old.	Florence	Rape of virgin not <i>viripotente</i>	<i>Atti sospesi</i>
1806	Francesco B., older than twelve years old, Domenico B., ten years old	Lucrezia, seven years old	Florence	Violent rape	No grounds for proceeding
	Franco C., 40 years old, married, woodcutter	Maria Teresa D., nine years old	Florence	Rape of virgin not <i>viripotente</i>	<i>Atti sospesi</i>
1807	Dionisio G.	T., seven years old	Florence	Attempted rape of a virgin not <i>viripotente</i>	Two months of prison, costs of the trial and financial support to the injured party

Tribunale di Prima Istanza (1808-1814)					
Year	Defendant	Injured party	Place	Charge	Sentence
1810	Domenico B., 36 years old, married, peasant	Anna C., thirteen years old	Florence	Violent rape	<i>Atti sospesi</i>
1811	Cosimo M., 21 years old, unmarried, milliner	Elvira I., seven years old	Florence	Violent rape	<i>Atti sospesi</i>

Ruota Criminale (1814-1838)					
Year	Defendant	Injured party	Place	Charge	Sentence
1815	Paolo D., 30 years old, shop boy	Luisa C., eight years old. Their parents were peasants.	Reggello	Rape of virgin not <i>viripotente</i>	Three years of banishment from Florence, costs of the trial and financial support to the injured party
1826	Pietro V., 68 years old, married, lemon seller	Annina Z., seven years old.	Florence	Rape of virgin not <i>viripotente</i>	Three years of <i>confino</i> in the provincia di Siena, costs of the trial and financial support to the injured party
1827	Luigi M., 34 years old, married, cook	Teresa R., eleven years old	Florence	Attempted rape of a virgin not <i>viripotente</i>	Six months of banishment from Florence, costs of the trial and financial support to the injured party
1828	Pietro D., 18 years old, barber	Clorinda, five years old, and Carolina, four years old	Florence	Attempted rape of a virgin not <i>viripotente</i>	Three years of <i>confino</i> in Volterra, costs of the trial and financial support to the injured party
1830	Giuseppe B., 18 years old, unmarried, cigar maker	Fortunata D., nine years old	Florence	Rape of virgin not <i>viripotente</i>	Three years of forced labour, costs of the trial and financial support to the injured party
1832	Raimondo C., 43 years old, married, native of Pisa, teacher of reading and writing	Santa V., nine years old, her parents were farm labourers	Florence	<i>Atti impudici</i>	One year of banishment from Pisa and Florence, costs of the trial and financial support to the injured party

1834	Isidoro G., 30 years old, sculptor-cook	Maria G., ten years old	Florence	Rape of virgin not <i>viripotente</i>	Five years of <i>confino</i> in the Provincia of Siena, costs of the trial and financial support to the injured party
	Francesco M., 60 years old, married, bricklayer	Teresa S., ten years old	Florence	Rape of virgin not <i>viripotente</i>	<i>Processo aperto</i>
1837	Luigi S., 50 years old, married, house painter	Assunta, ten years old	Florence	<i>Mollizie</i>	Three years of <i>confino</i> , costs of the trial and financial support to the injured party
	Francesco R., 37 years old, unmarried, wine seller	Anna, eight years old	Florence	Attempted rape of a virgin not <i>viripotente</i>	Four months of prison, costs of the trial and financial support to the injured party
	Angiolo R., 20 years old, unmarried, peasant	Clorinda, seven years old	Galluzzo	<i>Mollizie</i>	Banishment from Florence and neighbourhoods, costs of the trial and financial support to the injured party

Tribunale Collegiale di Prima Istanza (1838-1849)					
Year	Defendant	Injured party	Place	Charge	Sentence
1839	Tommaso C., 26 years old, unmarried, peasant	Carolina C., ten years old, daughter of a peasant	Dicomano	<i>Mollizie</i>	One year of banishment from the <i>vicariato</i> of Pontassieve and five miles around and from the district of

					Florence, financial support to the injured party and costs of the trial
	Agostino B. Servant	Girl aged eleven	Florence	<i>Mollizie</i>	One month of prison, but the girl's father withdrew the charge
1840	Luigi B., 24 years old, unmarried, charioteer	Giuseppa C., five years old, daughter of a gardener	Quarto (Sesto)	<i>Mollizie</i>	Fifteen days of prison, financial support to the injured party and costs of the trial
	Giovanni F., 44 years old, married, miller boy	Teresa C., twelve years old	Rufina (Vicariato of Pontas- sieve)	Pederasty and <i>mollizie</i>	Two years of banishment from the <i>vicariato</i> of Pontassieve, financial support to the injured party and costs of the trial
	Pietro S., 43 years old, married, vintner	Three girls and one boy not yet arrived at the age of puberty	Florence	<i>Mollizie</i>	Acquittal
	Giovanni B. 59 years old, married, bricklayer	Albina M., six years old	Monteca- tini	<i>Mollizie</i>	15 days of prison, financial support to the injured party and costs of the trial
1841	Antonio B. 18 years old, unmarried, livestock deal	Angiola D., not arrived at the age of puberty	Montevar- chi	<i>Mollizie</i>	15 days of prison (Antonio was underage), financial support to the injured party and costs of the trial

	Luigi C., 17 years old, unmarried, stone cutter	Ancilla D., eleven years old	Rufina	<i>Mollizie</i>	30 days of prison, financial support to the injured party and costs of the trial
1842	Antonio D., 17 years old, carrier	Clorinda D., nine years old	Rufina	<i>Mollizie</i>	Acquittal
1845	Silvestro C., 21 years old, unmarried, farm labourer	Annunziata C., eight years old	Reggello	<i>Mollizie</i>	40 days of prison, financial support to the injured party and costs of the trial
	Leone B., 54 years old, married, cigar maker or seller	Anna B., ten years old	Florence	<i>Mollizie</i>	Six months of prison, financial support to the injured party and costs of the trial
	Ferdinando C., 20 years old, unmarried, carriage maker	Maria L., nine years old	Pontas- sieve	<i>Mollizie</i>	Six months of prison, financial support to the injured party and costs of the trial
1846	Pietro P., 31 years old, married, porter	Filomena C., not arrived at the age of puberty	Volterra	<i>Atti impudici</i>	Acquittal
1846	Michele B., 41 years old, married, docker	Amalia M., eight years old	Florence	<i>Mollizie</i>	Two months of prison, financial support to the injured party and costs of the trial

	Pietro F., 16 years old, farm labourer	Francesca G., eight years old	Volterra	Rape of a virgin not <i>viripotente</i>	Eight months of prison, financial support to the injured party and costs of the trial
	Gaspero C., 16 years old, farm labourer	Eurige P., eleven years old, daughter of a farm labourer	San Mauro a Signa	Attempted violent rape	Four months of prison, financial support to the injured party and costs of the trial
1847	Caterina C., 55 years old, married, farm labourer	Assunta C., seven years old	Pesciola	<i>Mollizie</i>	Acquittal
1849	Costantino P., 34 years old, married, corporal (in the army)	Annunziata B., eleven years old	Brozzi (Florence)	<i>Mollizie</i>	Acquittal

Tribunale Collegiale di Prima Istanza (1856-1865)					
Year	Defendant	Injured party	Place	Charge	Verdict
1856	Giovanni S., 45 years old, cigar maker or seller	Laurina B. seven years old	Florence	Attempted <i>violenza carnale</i> and violent <i>atti di libidine</i>	Two years of prison, financial support to the injured party and costs of the trial
	Antonio G., 40 years old, shop assistant	Giulia B, six years old; Marianna B., nine years old	Florence	Violent <i>atti di libidine</i>	Two years of prison, financial support to the injured party and costs of the trial

1857	Pietro A., 39 years old, married, dairy farmer	Giuseppa V., nine years old	Florence	Violent <i>atti di libidine</i>	Acquittal
	Domenico F., 23 years old, unmarried, farm labourer	Anna F., eleven years old	Marradi	Violent <i>atti di libidine</i>	Acquittal
1858	Maria P., years old, widow, laundress.	Cesira C., eleven years old	Florence	Assistance to <i>violenza carnale</i> and <i>atti di libidine</i>	Maria was convicted to 36 months of prison for fostering prostitution (<i>lenocinio</i>).
1859	Carlo S., - 33 years old, dressmaker	Crocifissa, twelve years old.	Florence	Violent <i>atti di libidine</i>	Four months of prison
	Vincenzo F., 63 years old, performer	<i>Bambina</i> , female child	Florence	Violent <i>atti di libidine</i>	Acquittal
	Dardo E., 50 years old, manual labourer	Maria M., young girl, <i>fanciulletta</i>	Prato	Violent <i>atti di libidine</i>	Acquittal
	Giuliano P., 67 years old, married, merchant	Children, Adelaide e Luigi P., daughter and son of a farm labourer	Capitigna- no	Violent <i>atti di libidine</i>	Acquittal
	Domenico F., defaulter.	Girl aged ten		Attempted <i>violenza carnale</i>	Four years of prison, financial support to the injured party and costs of trial

	Antonio C., 66 years old, widower, shopkeeper	Maria, 10 years old, sometimes servant	Florence	Violent <i>atti di libidine</i>	One year of prison, financial support to the injured party and costs of trial
1860	Luigi B., 28 years old, unmarried, farm labourer	Emilia B., nine years old.	Borgo S. Lorenzo	Violent <i>atti di libidine</i>	One year of prison, financial support to the injured party and costs of trial
	Domenico F., 60 years old, widower, seller of second-hand things	Luisa P. nine years old	Pontassieve	Attempted <i>violenza carnale</i>	Three years of prison, financial support to the injured party and costs of trial
	Pietro L., 53 years old, married, craftsman	Erminia M., eleven years old.	Florence	Violent <i>atti di libidine</i>	30 months of prison; financial support to the injured party and costs of trial
	Giovanni M. 37 years old, widower, native of Hungary, engineer.	Giulia C., eleven years old	Florence	Violent <i>atti di libidine</i>	Acquittal
1861	Michele P., 14 years old, baker	Palmira D., ten years old	Florence	Violent <i>atti di libidine</i>	Ten days of prison; financial support to the injured party and costs of trial
	Lorenzo B., 72 years old, married, maker and/or seller of flatware (<i>cocciaio</i>)	Several girls; two under twelve	Scarperia	Violent <i>atti di libidine</i>	Two years of prison; financial support to the injured party and costs of trial

	Giuseppe F., sixteen years old, upholsterer.	Italia S., three years old	S. Ilario a Colombaia	Violent <i>atti di libidine</i>	Acquittal
	Giuseppe D., seventeen years old, farm labourer	Clementina V., five years old	Pratolino	Violent <i>atti di libidine</i>	Fifteen months of prison; financial support to the injured party and costs of trial
	Giovan B., 32 years old, married, farm labourer	Assunta T., five years old	Figline	Violent <i>atti di libidine</i>	Acquittal
1862	Raffaello A., 27 years old, married, merchant	Isolina B., eleven years old	Florence	Attempted <i>violenza carnale</i>	Eight months of prison; financial support to the injured party and costs of trial
	Sebastiano D., defaulter, shop assistant	Maria C., four years old	Florence	Violent <i>atti di libidine</i>	Three years of prison; financial support to the injured party and costs of trial
	Serafino from the Spedale Degli Innocenti, nineteen years old, unmarried, farm labourer	Erminia P., eleven years old	Montanino	Violent <i>atti di libidine</i>	Acquittal
	Ferdinando S. 31 years old, married, poultryman.	Paolina D., nine years old	Florence	Attempted <i>violenza carnale</i>	Acquittal

	Carlo D. , 32 years old, hat dyer	Francesca C., female child	Lastra a Signa	Violent <i>atti di libidine</i>	Acquittal
	Giuseppe C., 25 years old, worker in a coffee house	Caterina B., ten years old	Florence	Violent <i>atti di libidine</i>	One year of prison; financial support to the injured party and costs of trial
	Antonio I., defaulter	Adele R., seven years old	Florence	Violent <i>atti di libidine</i>	Two years of prison; financial support to the injured party and costs of trial
1863	Antonio F., 28 years old, dairy farmer	Elisa M., eleven years old	Florence	Violent <i>atti di libidine</i>	Acquittal
	Giuseppe G., Station master	Faustina F., eleven years old. Ippolito B., eight years old. Narciso, nine years old		Violent <i>atti di libidine</i>	Fifteen months of prison; financial support to the injured party and costs of trial
	Francesco F., seventeen years old, unmarried, student	Verdiana L., nine years old	Florence	Violent <i>atti di libidine</i>	Three months of prison; financial support to the injured party and costs of trial
	Ersilio S., twelve years old	Clordinda D., four years old	Galluzzo	Attempted <i>violenza carnale</i>	Acquittal
	Angiolo A., 44 years old, unmarried, farm labourer	Candida A., twelve years old	Rifredi	Violent <i>atti di libidine</i>	The charge was withdrawn.

	Pietro D., nineteen years old, unmarried, farm labourer	Carolina F., ten years old	Borgo San Lorenzo	Violent <i>atti di libidine</i>	Sentenced for injuries to eighteen months of prison; financial support to the injured party and costs of trial
1864	Pietro P., 32 years old, unmarried, carpenter	Albinia B., 7 years old; Arnoldo B., 6 years old	Florence	Violent <i>atti di libidine</i>	Acquittal
	Pietro B., 75 years old, married, poultryman	Palunia P., eleven years old	Florence	Violent <i>atti di libidine</i>	Acquittal
	Giuseppe B., 59 years old, widower.	Antonia B., seven years old	Prato	Violent <i>atti di libidine</i>	Eighteen months of prison; financial support to the injured party and costs of trial
	Luigi N., 37 years old, unmarried, farm labourer	Clorinda M., eight years old	Impruneta	Violent <i>atti di libidine</i>	Sentenced for 'offence to decency' to three months of prison; financial support to the injured party and costs of trial
	Raffaello M., 60 years old, widower	Maria Luisa S., nine year old	Ponte alla Badia (Fiesole)	Violent <i>atti di libidine</i>	Eighteenth months of prison; financial support to the injured party and costs of trial

1865	Pietro F., 30 years old, married, watchman	Annunziata F., eleven years old	Figline	<i>Atti di libidine</i>	Acquittal
	Ferdinando F., 48 years old, unmarried, employee in the telegraph office	Assunta P., eight years old	Florence	Violent <i>atti di libidine</i>	Thirteen months of prison, financial support to the injured party and costs of trial
	Girolamo R., 65 years old, widower, dressmaker	Maria F., eighteen years old	Mercatale in Val di Pesa	Attempted <i>violenza carnale</i>	Eight months of prison, financial support to the injured party and costs of trial
	Ferdinando G., 36 years old, married, farm labourer	Erminia D., eleven years old Faustina D., over twelve years	Reggello	Violent <i>atti di libidine</i>	Guilty only with regard to Erminia. One year of prison, financial support to the injured party and costs of trial

Corte d'Assise (1866-1889)					
Year	Defendant	Injured party	Place	Charge	Verdict
1866	Domenico B. 34 years old, farm labourer	Teresa S., under twelve	Firenzuola	<i>Violenza carnale</i>	Four years of prison, financial support to the injured party and costs of trial
	Ferdinando T., 58 years old, widower, seller of umbrellas	Clorinda R., under twelve.		<i>Violenza carnale</i>	Four years of prison, financial support to the injured party and costs of trial

	Francesco M., 28 years old, widower, nail maker	Annunziata G., under twelve	Pistoia	<i>Violenza carnale</i>	Four years of prison, financial support to the injured party and costs of trial
1868	Alberto S., 37 years old, married, shopkeeper	Ottavia C., eight years old	Fucecchio	<i>Violenza carnale</i>	Six years of prison, financial support to the injured party and costs of trial
	Pietro D., 23 years old, unmarried.	Albina B., under twelve	Borgo S. Lorenzo	<i>Violenza carnale</i>	Six years of prison, financial support to the injured party and costs of trial
1869	Marina O., 39 year old.	Arena P., under 12	Florence	<i>Violenza carnale e lenocinio</i>	Three years of prison, financial support to the injured party and costs of trial
1870	Giovanna A., 25 years old, married.	Caterina e Giuseppe P.,	Prato	Lenocinio and assistance to <i>violenza carnale</i> and <i>atti di libidine</i>	Eight years of prison, financial support to the injured party and costs of trial
1872	Ottavio C., 31 years old, married, native of Trani, living at Roma, lawyer	Cesarina C., 7 years old	Florence	Violent <i>atti di libidine</i>	Three years of prison, financial support to the injured party and costs of trial

	Adriano M., unmarried, acrobat	Giuseppina F., 10 years old	Florence	<i>Violenza carnale</i>	Six years of prison, financial support to the injured party and costs of trial
	Angiolo C., nineteen years old, unmarried, farm labourer	Maremma S., 8 years old	Impruneta	<i>Violenza carnale</i>	Four years of prison, financial support to the injured party and costs of trial
1873	Antonio D., 24 years old, unmarried.	Girl aged ten	Figline	<i>Violenza carnale</i>	Four years of prison, financial support to the injured party and costs of trial
1874	Giuseppe P., 19 years old, unmarried, farm labourer	Six years old girl	Prato	<i>Violenza carnale</i>	Nineteen months and 22 days of prison, financial support to the injured party and costs of trial
1875	Filippo B., 28 years old, textile worker	Two 'bambine', female children	Prato	<i>Violenza carnale</i>	Four years of prison, financial support to the injured party and costs of trial
	Carlo C., 58 years old, unmarried, shop boy. Ferdinando B., 64 years old, stableman. Ferdinando C., 32 years old, married,	One 'bambina', female child.	Pistoia	<i>Violenza carnale</i>	The first two were convicted to four years of prison; the last two to five years of prison; all to financial support to the injured party and

	stone cutter. Giuseppe G., 60 years old, married, hairdresser. All from Pistoia				costs of trial.
1876	D., 21 years old, unmarried	Girl aged ten		<i>Violenza carnale</i>	Five years of prison, financial support to the injured party and costs of trial
1878	Lorenzo T., 47 years old, married, peasant	Rosa F., under 12	Castrocaro	<i>Violenza carnale</i>	Four years of prison, financial support to the injured party and costs of trial
	Antonio F., 60 years old, beggar	One girl aged six and one girl aged seven	Prato	<i>Violenza carnale</i> and violent <i>atti di libidine</i>	Five years of prison, financial support to the injured party and costs of trial
1880	Felice D., 40 years old, unmarried, craftsman	Giuseppa V., nine years old	Rocca S. Casciano	<i>Violenza carnale</i>	Six years of prison, financial support to the injured party and costs of trial
	Francesco C., 41 years old, married, farm labourer. Vincenzo U., 46 years old, unmarried, knife seller	Emilia P. and Antonia B., under 12	Modigliano	<i>Violenza carnale</i> and violent <i>atti di libidine</i>	The first defendant was convicted to seven years of prison; the second to two years of prison; both to financial support to the injured parties and costs of trial

1881	Antonio V., 76 years old, widower, farm labourer	Eugenia P., nine years old	Cutigliano	<i>Violenza carnale</i>	Five years of prison, financial support to the injured party and costs of trial
1884	Giulio D., seventeen years old, cabinet maker	Isolina P., eleven years old	Florence	<i>Violenza carnale</i>	Three years and six months of prison, financial support to the injured party and costs of trial
1885	Lorenzo L., sixteen years old, coal merchant	Assuntina S., five years old	S. Miniato	<i>Violenza carnale</i>	One year and six months of prison, financial support to the injured party and costs of trial
1887	Gabriello G., sixteen years old, unmarried, farm labourer	Giuseppa A., under twelve	Greve	<i>Violenza carnale</i>	Two years of prison, financial support to the injured party and costs of trial
1889	Andrea M., 44 years old, widower, wood cutter	Giulia, eleven years old	Rocca di S. Casciano	<i>Violenza carnale</i>	Six years of prison, financial support to the injured party and costs of trial

Corte d'Assise (1890-1914)					
Year	Defendant	Injured party	Place	Charge	Verdict
1892	Tommaso C., 69 years old, retired railway worker	Giulia N., nine years old	Florence	Violent <i>atti di libidine</i>	Five years and ten months of prison, financial support to

					the injured party and costs of trial
1893	Pietro G., 52 years old, stableman	Iole C., nine years old	Florence	Violent <i>atti di libidine</i>	Seven years and three months of prison, financial support to the injured party and costs of trial
	Giustino C., 27 years old, unmarried, farm labourer	Elvira C., five years old	S.Bartolomeo a Ripoli	Violent <i>atti di libidine</i>	Nine years, three months and fifteen days of prison, financial support to the injured party and costs of trial
	Costantino R., 42 years old, farm labourer	Giuseppina P. Assunta V., under twelve	Dicomano	<i>Violenza carnale</i> and violent <i>atti di libidine</i>	Eighteen years of prison, financial support to the injured party and costs of trial
1894	Luigi P., 53 years old, widower, wood cutter	Felicita P., sixteen years old; Rosa P., thirteen years old; Giulia B., seven years old; Marianna A., six years old	Florence	<i>Violenza carnale</i>	Eighteen years and four months of prison, financial support to the injured party and costs of trial
	Antonio C., 25 years old, shop boy	Cesira e Francesco G., under twelve	Borgo S. Lorenzo	<i>Violenza carnale</i>	Five years of prison, financial support to the injured party and costs of trial

1895	Alfredo B. , seventeen years old, unmarried, farm labourer	Angelica C., eight years old	Vinci	<i>Violenza carnale</i>	No grounds for proceeding
1896	Federigo F., 26 years old, married, shoemaker	Ada M., eleven years old	Florence	<i>Violenza carnale</i>	Six years and eight months of prison, financial support to the injured party and costs of trial
1898	Alfredo F, 21 years old, unmarried, dairy farmer	Aminta B., five years old	Florence	<i>Violenza carnale</i>	Acquittal
	Antonio B., 30 years old, unmarried, dairy farmer	Annina B., eleven years old	Londa	<i>Violenza carnale</i>	Six years, nine months and twenty days of prison, financial support to the injured party and costs of trial
	Cipriano P., 52 years old, poultryman	Genny C., under twelve	Sesto Fiorentino	<i>Violenza carnale</i>	Nine years and four months of prison, financial support to the injured party and costs of trial
	Alfonso G., 25 years old, unmarried, farm labourer	Andreina B., ten years old	Greve	<i>Violent atti di libidine</i>	Three years and nine months of prison, financial support to the injured party and costs of trial

1900	Giobbe L., 39 years old, married, book keeper	Corinna B., seven years old	Florence	<i>Violenza carnale</i>	Ten years and nine months of prison, financial support to the injured party and costs of trial
	Augusto G., 26 years old, unmarried.	Marcellina M., four years old	Arezzo	Violent <i>atti di libidine</i>	Five years and ten months of prison, financial support to the injured party and costs of trial
	Sebastiano B., 22 years old, unmarried, rag merchant	Elvira G., 7 years old	Rocca S. Casciano	<i>Atti di libidine</i>	Four years, six months and five days of prison, financial support to the injured party and costs of trial
	Luigi R., 21 years old, unmarried, farm labourer	Ida C., nine years old	Borgo S. Lorenzo	<i>Violenza carnale</i>	Acquittal
1902	Emilio D., 36 years old, unmarried, turner	Augusta P., nine years old	Florence	<i>Violenza carnale</i>	Eleven years, three months and 25 days of prison, financial support to the injured party and costs of trial
1903	Santi M., 47 years old, widower, shopkeeper	Four girls between twelve and sixteen years old; one girl under	Montelupo	Offence to decency in public spaces and <i>violenza</i>	Ten years and fifteen days of prison, financial support to the injured

		twelve		<i>carnale</i>	party and costs of trial
	Emilio S., 51 years old, private teacher	Elisa G., nine years old. Livia S., seven years old. Antonietta A., eight years old.	Certaldo	<i>Atti di libidine</i> and offence to decency in public space	Seven years, nine months and ten days of prison, financial support to the injured party and costs of trial
1904	Angelo B., 55 years old, married, carrier	Angiolina P., eleven years old	Vallombrosa	Violent <i>atti di libidine</i>	Five years of prison, financial support to the injured party and costs of trial
	Alfredo C., 31 years old, unmarried, farm labourer	Aminta C., ten years old	Rifredi	<i>Violenza carnale</i>	Eight years of prison, financial support to the injured party and costs of trial
1905	Guglielmo M. 34 years old, unmarried, baker	Maria Luisa R., eight years old	Prato	<i>Violenza carnale</i>	Ten years of prison, financial support to the injured party and costs of trial
	Vito C., 21 years old, married, marble worker and typographer	Girl aged eight	Montopoli	<i>Violenza carnale</i>	Six years and eight months of prison, financial support to the injured party and costs of trial
1906	Silvio M., 20 years old, unmarried, manual labourer	Giuseppina M., under twelve	Bagno a Ripoli	Violent <i>atti di libidine</i>	Four years, ten months and ten days of prison, financial support to the injured party and

					costs of trial
1908	Antonio P., 69 years old, coal merchant	Maria T., 7seven years old	Figline	Violent <i>atti di libidine</i>	No grounds for proceeding
1912	Francesco T., 56 years old, teacher in primary school	Several girls under twelve	Barberino Val d'Elsa	Violent <i>atti di libidine</i>	Acquittal
1914	Alberto C., 21 years old, shop boy in a dairy	Rina I., eight years old	Florence	<i>Violenza carnale</i>	Five years, six months and 20 days of prison, financial support to the injured party and costs of trial

9. Sexual violence against male children (1786-1914)

Year	Defendant	Injured party	Place	Charge	Verdict
Supremo Tribunale di Giustizia (1786-1808)					
1788	Giuseppe T., native of Pisa.	Jacopo N., 'tender age'	Florence	Sodomy	Ten years of <i>lavoro pubblico</i>
	Piero C.	Gaetano M., six years old	Florence	Sodomy	Eighteen lashes to be administered in private over the course of three days and financial support to the injured party
	Bartolomeo R.	Gaetano M., nine years old	S. Quirico a Legnaia	Attempted Sodomy	<i>Atti sospesi</i>
1797	Luigi N., hairdresser	Giuseppe F., eight years old	Florence	Sodomy	Three years of exile from Florence, financial support to the injured party and costs of the trial
1798	Unknown	Simone C., ten years old	Florence	Sodomy	<i>Atti sospesi</i>
Tribunale di I Istanza (1808-1814)					
1811	Giovanni, shoemaker	Luigi B., four years old	Florence	Violence toward a male under fifteen	No grounds for proceeding
Ruota Criminale (1814-1838)					
1822	Nicola D., 39 years old, unmarried, native of Frosinone, living at Florence	Giuseppe M., twelve years old	Florence	Attempted sodomy	<i>Processo aperto</i>

1829	Vincenzo B., seventeen year old, unmarried, house painter	Andrea N., seven years old, house painter	Florence	Sodomy	Eight months of prison, financial support to the injured party and costs of the trial
Tribunale Collegiale di Prima Istanza (1838-1865)					
1840	David S., unmarried, thirteen years old, house painter	Leopoldo D., seven years old	Florence	<i>Mollizie</i>	Five days of prison, financial support to the injured party and costs of the trial
1844	Giuseppe C., seventeen years old, unmarried, flower seller	Andrea D., nine years old	S. Casciano	Attempted violent sodomy	Six months of prison, financial support to the injured party and costs of the trial
1846	Carlo B., fifteen years old, unmarried, woodcutter	Antonio L., eight years old	Loro	<i>Mollizie</i>	One month of prison, financial support to the injured party and costs of the trial
1849	Antonio P., seventeen years old, unmarried, charioteer	Federigo V., seven years old	Florence	Attempted sodomy	One month of prison, financial support to the injured party and costs of the trial
1860	Giovanni S., 49 years old, widower, farm labourer	Raffaello D., eight years old	Florence	Violent <i>atti di libidine</i>	Two years of prison, financial support to the injured party and costs of the trial
1863	Giuseppe G., station master of Campiabbi	two boys and one girl, all under twelve	Campiabbi	Violent <i>atti di libidine</i>	Fifteen months of prison, financial support to the

					injured party and costs of the trial
	Paolo M., 33 years old, unmarried, performer	Emilio D., eleven years old	Florence	Attempted <i>violenza carnale</i>	Acquittal
1864	Pietro P., 32 years old, unmarried, woodcutter	Aroldo, six years old. Albinia, seven years old	Florence	Violent <i>atti di libidine</i>	Acquittal
	Don Giuseppe B., headmaster of the municipal schools in Prato	Several boys under twelve	Prato	Violent <i>atti di libidine</i>	Four years of prison, financial support to the injured party and costs of the trial
	Leopoldo F., 71 years old, dressmaker	Raffaello T., nine years old	Florence	<i>Atti di libidine</i>	Two months of prison, financial support to the injured party and costs of the trial
1865	Raffaello L., 25 years old, unmarried, butcher	Andrea M., eleven years old	Florence	Attempted <i>violenza carnale</i>	One year of prison, financial support to the injured party and costs of the trial
	Michele G., 18 years old, unmarried, peasant	Emilio P., nine years old	Coverciano	Violent <i>atti di libidine</i>	Two years of prison, financial support to the injured party and costs of the trial
Corte d'Assise (1866-1914)					
1868	Giuseppe B., upholsterer.	Eugenio D., eight years old. Napoleone V., seven years old	Florence	<i>Violenza carnale</i> and violent <i>atti di libidine</i>	22 months of prison, financial support to the injured party and costs of the trial

1870	Giovanni L., sixteen years old, craftsman; Enrico P., fifteen years old, craftsman; Agostino D., thirteen years old, woodcutter. All living at Pistoia	Stefano C., nine years old	Pistoia	<i>Violenza canrale</i>	The first defendant was convicted to two years of prison; the second to eighteen months of prison; the third to six months of prison; all to financial support to the injured party and costs of the trial
1875	Antonio F., nineteen years old, unmarried, carriage varnisher	Ettore M., eleven years old	Florence	<i>Violenza carnale</i>	7 years of prison, financial support to the injured party and costs of the trial
1876	Ferdinando R., 36 years old. Filippo C., 62 years old. Carlo C., 25 years old.	Two boys under twelve	Florence	<i>Violenza carnale</i>	The first defendant was convicted to twelve years of prison; the second to ten years of prison; the third to six years of prison; all to financial support to the injured party and costs of the trial
1880	Tommaso S., seventeen years old, unmarried, baker	Enrico M., nine years old	Pistoia	<i>Violenza carnale</i>	Two years and four months of prison, financial support to the injured party and costs of the trial

	Ferdinando B., fifteen years old, unmarried, shoemaker	Casare C., eight years old. Adamo A., ten years old. Parigi P., eight years old	Sesto Fiorentino	<i>Violenza carnale</i>	Five years of prison, financial support to the injured party and costs of the trial
1882	Egidio D., seventeen years old, unmarried, suitcase seller	Alfredo D., four years old	Florence	<i>Violenza carnale</i>	Three years of prison, financial support to the injured party and costs of the trial
	Ferdinando R., eighteen years old, unmarried, shoemaker	Vitaliano M., six years old	Fucecchio	<i>Violenza carnale</i>	Three years of prison, financial support to the injured party and costs of the trial
1886	Baldassarre P., 42 years old, unmarried, teacher without license	Luigi C., Riccardo M., Orlando M., all under twelve. Odoardo M., fourteen years old	Balconevisi	<i>Violenza carnale; atti di libidine</i>	Ten years of prison, financial support to the injured party and costs of the trial
1889	Egidio B., 25 years old, unmarried	Galileo M., nine years old	S. Casciano	<i>Violenza carnale</i>	Six years of prison, financial support to the injured party and costs of the trial
1892	Nazzareno M., 40 years old, woodcutter	Boy under twelve	Florence	<i>Atti di libidine</i>	Three years and six months of prison, financial support to the injured party and costs of the trial

1894	Oreste F., 46 years old, upholsterer	Silvio P., nine years old	Florence	<i>Violenza carnale</i>	Acquittal
	Gustavo P., 27 years old, shop assistant	Alfonso B., eleven years old	Florence	<i>Violenza carnale</i>	The charge was withdrawn
	Antonio C., 25 years old, shop boy	Cesira e Francesco G., both under twelve	Borgo S. Lorenzo	<i>Violenza carnale</i>	Five years of prison, financial support to the injured party and costs of the trial
	Torquato L., eighteen years old, stableman	Gustavo C., nine years old	Prato	<i>Violenza carnale</i> and violent <i>atti di libidine</i>	Five years, three months and six days of prison, financial support to the injured party and costs of the trial
1896	Antonio P., 31 years old, unmarried, shoemaker	Pasquale F., ten years old	Figline	<i>Violenza carnale</i>	Thirteen years, nine months of prison, financial support to the injured party and costs of the trial
1897	Romano C., 40 years old, headmaster of the Collegio Matilde Strozzi Ridolfi	Ezio L. eight years old. Lorenzo S., fourteen years old	Florence	<i>Violenza carnale</i>	The charge was withdrawn
1901	Oreste F., 59 years old, married, upholsterer	Guido D., under twelve	Florence	<i>Violenza carnale</i>	Nine years of prison, financial support to the injured party and costs of the trial

	Raimondo B., 20 years old, farm labourer. Augusto P., seventeen years old, farm labourer.	Umberto F., under twelve	Calenzano	<i>Violenza carnale</i>	Acquittal
1905	Umberto F., eighteen years old, unmarried, wagoner	Ugo C., eleven years old	Empoli	<i>Violenza carnale</i>	The charge was withdrawn
	Corrado N., nineteen years old, shopkeeper. Alfredo P., eighteen years old, peasant.	Aurelio B., ten years old	Campi	<i>Violenza carnale</i>	Acquittal
1914	Adolfo I., 32 years old, craftsman	Giovanni G., ten years old	Florence	<i>Violenza carnale</i>	Ten years of prison, financial support to the injured party and costs of the trial

10. Incest (1786-1914)

Year	Defendant	Injured Party	Place	Charge	Sentence
Supremo Tribunale di Giustizia (1786-1808)					
1796	Andrea B., husband of her older sister	Maria Assunta F., sixteen years old	Santa Margherita a Montici	Both charged with incest	<i>Atti sospesi</i>
1799	Francesco B., over 40, married, her uncle	Maria Caterina M., 25 years old.	Florence	Both charged with incest	<i>Atti sospesi</i>
1804	Luca D., 44 years old, married, coal merchant, her father	Maria D., 21 years old, seamstress	Florence	Both charged with incest	<i>Processo aperto</i>
1806	Domenico C., her stepfather	Maddalena G., twelve years old	Lastra a Signa	Only Domenico charged with incest	<i>Atti sospesi</i>
Routa Criminale (1814-1838)					
1835	Luca B., married, 64 years old, forest guard, her grandfather	Adelaide P., fifteen years old.	Fiesole	Both charged with incest	Luca was convicted to one year of banishment in Volterra
Tribunale Collegiale di I Istanza (1838-1865)					
1839	Tommaso C., 26 years old, unmarried, farm labourer, her cousin	Carolina C., ten years old, daughter of a farm labourer	Dicomano	<i>Mollizie</i>	One year of banishment from the <i>vicariato</i> of Ponte a Sieve and five miles around and from the district of Florence, financial support to the injured

					party and costs of the trial
1856	Giuseppe B., 53 years old, widower, shoemaker, her father	Annunziata B., 22 years old, unmarried, dressmaker	Florence	Both charged with incest	The trial was dealt by the <i>Corte Regia</i>
1859	Santi B., 70 years old, widower, peasant, her father in law	Widow of Santi's son		Only Santi charged with incest	Acquittal
1862	Giuseppe F., 34 years old, peasant, her stepfather	Luisa M., 28 years old	San Giorgio a Ruballa	Only Giuseppe charged with incest	Eighteen months of prison and costs of the trial
	Leopoldo B., 40 years old, peasant, her stepfather	Regina P., nineteen years old, unmarried, peasant	Badia a Ripoli	Both charged with incest	Acquitted
Corte d'Assise (1866-1914)					
1867	Zanobi F., 42 years old, married, jeweller, her father	Palmira F., nineteen years old, unmarried, servant	Florence	Only Zanobi charged with incest	Six years of prison, loss of all paternal rights over his daughter, financial support to the injured party and costs of trial
1884	Giuseppe P., 63 years old, widower, her father	Vittoria P., eighteen years old, unmarried.	Florence	<i>Violenza carnale</i> with incest	Six years of prison, loss of all paternal rights over his daughter; financial

					support to the injured party and costs of trial
1886	Ferdinando S., 61 years old, married, woodcutter, her father	Ermelinda S., nineteen years old, textile worker	Florence	<i>Violenza carnale</i>	Seven years of prison, loss of all paternal rights over his daughter; financial support to the injured party and costs of trial
1893	Costantino R., 42 years old, peasant, girls' stepfather	Giuseppina P. e Assunta V., 'female children'	Dicomano	<i>Violenza carnale</i> and violent <i>atti di libidine</i>	Eighteen years of prison, financial support to the injured party and costs of trial
	Giuseppe S., 40 years old, married, livestock breeder, her father	Verdiana S., nine years old	Castel-fiorentino	<i>Atti di libidine</i>	Seven years and six months of prison, loss of all paternal rights over his daughter, financial support to the injured party and costs of trial
	Giuseppe B., 49 years old, married, bricklayer, her father	Ernesta B., fourteen years old	Florence	Violent <i>atti di libidine</i>	Eight years and nine months of prison, loss of all paternal rights over his

					daughter, financial support to the injured party and costs of trial
1894	Luigi P., 52 years old, widower, woodcutter, Felicita's and Rosina's daughter	Felicita P., seventeen years old. Rosina P., fourteen years old. Other girls under twelve	Florence	<i>Violenza carnale</i>	Eighteen years and four months of prison, loss of all paternal rights over his daughter, financial support to the injured party and costs of trial
	Giulio G., 42 years old, butcher, her father	No data about Giulio's daughter	Pistoia	<i>Violenza carnale</i>	Acquittal
1897	Emilio G., 42 years old, widower, farm labourer, her stepfather.	Ermelinda R., under sixteen	Pistoia	<i>Violenza carnale</i>	Seven years, six months and ten days of prison, financial support to the injured party and costs of trial
	Pietro D., 55 years old, widower, farm labourer, her father	Giulia D., under twelve	Prato	<i>Atti di libidine and violenza carnale</i>	Nineteen years and one month of prison, loss of all paternal rights over his daughter, financial support to

					the injured party and costs of trial
1902	Lombardo D., 42 years old, widower, stableman, her father	Olga D., thirteen years old	Florence	<i>Violenza carnale</i>	Fifteen years of prison, loss of all paternal rights over his daughter, financial support to the injured party and costs of trial
1904	Raffaello F., 43 years old, widower, porter, her father	Bianca F., thirteen years old	Florence	<i>Violenza carnale</i>	Ten years and six months of prison, loss of all paternal rights over his daughter, financial support to the injured party and costs of trial
1905	Simone G., 48 years old, widower, farm labourer, her father	Gioconda G., eighteen years old	Londa	<i>Violenza carnale</i>	Six years and eight months of prison, loss of all paternal rights over his daughter, financial support to the injured party and costs of trial

1907	Antonio C., 56 years old, widower, wagoner, her father	Maria C., fourteen years old	Florence	<i>Violenza carnale and atti di libidine</i>	Twelve years and ten months of prison, loss of all paternal rights over his daughter, financial support to the injured party and costs of trial
	Giocondo C., 44 years old, married, manual labourer, her stepfather	Raffaella V.,	Borgo S. Lorenzo	<i>Violenza carnale</i>	Six years and eight months, financial support to the injured party and costs of trial
1911	Attilio E., 49 years old, her uncle	Lutgarda, 21 years old	Florence	<i>Violent atti di libidine</i>	Five years and five months of prison, financial support to the injured party and costs of trial
	Giulio D., 21 years old, typographer her older brother	Norma D., eleven years old	Prato	<i>Violent atti di libidine</i>	The charge was withdrawn
1913	Ernesto F., 44 years old, widower, waiter, her father.	Emma F., nineteen years old.	Florence and other places	<i>Violent atti di libidine and violenza carnale</i>	Eight years of prison, financial support to the injured party and costs of trial

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