Conclusion

This book has highlighted one specific aspect of the history of the Jews in Italy: the trials of professing Jews before the Papal Inquisition at the beginning of the seventeenth century. Inquisitorial *processi* against professing Jews provide the earliest known evidence of a branch of the Papal Inquisition taking judicial actions against Jews on an unprecedented scale and attempting systematically to discipline a Jewish community, pursuing this aim for several centuries. Our purpose has been to deepen existing insights into the role of the Papal Inquisition in Jewish life, the intricacies of legal jurisdiction over Jews in the early modern period, and the daily interaction of Jews and Christians on the eve of ghettoization.

Although the belief that the Inquisition could prosecute Jews had already been set out by theologians from medieval times, the papacy officially brought them under Inquisitorial jurisdiction in 1581. Enlarging its jurisdictional competence was a regular trait of the tribunal’s history, although in most cases the Inquisition was given authority to judge different types of heretics who seemed to threaten Catholic society at a particular moment, rather than members of an alien religion. As Andrea del Col has shown, at the beginning of the fifteenth century, witchcraft, magic, contempt for the ecclesiastical authorities and political opposition to the papacy became offences which could officially be prosecuted by the Inquisition. After the bull of *Licet ab initio* in 1542, and the re-establishment of the early modern Papal Inquisition, Protestantism, depicted in Inquisitorial terms as non-conformity to Catholicism, was officially labelled a heresy, just as Galilean science became one in the seventeenth century. Since Jews in Italy were considered part of the secular judicial system, and Roman law made no distinction between the punishment of offences between Jews and Christians, perhaps the inclusion of professing Jews in Inquisitorial jurisdiction made less of an impact upon existing secular rulers, theologians and theorists than one might have expected.

At the same time, one senses the papacy’s expansion of authority, its
The politicization of ecclesiastical power, attempting to ensure its preservation by becoming the judicial voice of Catholic leadership in the peninsula. This represented a paradox, since the Church relied on the assistance of the state it was trying to control, to enforce its jurisdiction over Italian society. Was this artificial assimilation of Jews into the broad category of offenders not part of the papacy’s continual assertion of power, which it seemed to be losing through conflicts of jurisdiction with the early modern secular states? Papal control over professing Jews continued into the eighteenth century, particularly during the papacies of Benedict XIV (1724–30), Clement XII (1730–39) and Pius VI (1775–99), whose demands for severe restrictions on Jewish life and an increase in their conversions to Catholicism were felt by Jews not only in Rome, but throughout the peninsula.

The Inquisition’s reputation for fairness was upheld in its prosecution of professing Jews. The tribunal showed itself as a court which focused on efforts to ascertain the truth by seventeenth-century standards, which meant distinguishing between innocence and guilt, and, within the category of guilt, recognizing the difference in degree of transgressions and framing the punishments of Jews according to those gradations alone. However questionable the nature of the offences it prosecuted, the Holy Office worked according to the criterion of a legal code that gave attention to the rights of Jewish defendants, and limited the use of torture, just as it did for Christians.

As a result, Inquisitorial punishments against Jews in Modena remained relatively mild. Between 1598 and 1638, 45% of the processi were discontinued. Inquisitors seemed to be impartial on most matters, sometimes perplexed and uncertain how to proceed, and on occasions showed sympathy even towards the Jewish offender. There is no suggestion that punishments were affected by Inquisitors who wanted to use more aggressive penalties for Jewish offenders, a policy which remained in stark contrast to the type of justice the Congregation of the Holy Office was seeking to endorse. If sentenced, professing Jews were usually allowed to reintegrate into the Jewish community, being given fines, which transformed the offender into a debtor without any other costly sanctions needing to be applied or the involvement of the secular arm in the execution of the Jew’s punishment.

Bernard Cooperman has recently argued that there is a shortage of criminal proceedings in Italy in general because these records were the first type of documents to be disposed of when space was lacking in judicial archives. Yet if trial procedure of the Jew before the Papal Inquisition is compared to similar activity in civil and criminal courts in other parts of western Europe, preliminary investigation suggests that the Inquisition’s conscious mitigation, its objectivity and fairness towards Jews, and its types of punishment were far milder than in secular courts. Here Jews were brought to trial for three categories...
of offence, those against people, those against property and crimes against the church and/or the state. A late discretionary medieval procedure which Jews were subject to in secular courts, particularly in lawsuits with Christians, was to take a specific oath or *Judeneid*, by which they were forced to stand barefoot on the skin of a sow and promise that they were saying the truth. Both Eric Zafran, who found proof of this ceremony in an illustrated manuscript from Schwabenspiegel in Brussels, and Louis Finkelstein, who found written evidence of its usage in secular courts in Pesaro, link it to the fifteenth century. Whether this continued into our period is doubtful. But Maria Boes, in her study of Jews in the criminal justice system in Frankfurt am Main from 1562 to 1696, has highlighted the different form of capital punishment Jewish criminals were given. Sometimes they were hung upside down by their feet or drowned, both of which were forms of capital punishment rarely used on Christians. These examples suggest the interplay between theory and practice and how different jurisdictional regimes produced diverse permutations of trials and legal activities against Jews. The intention of these penal incongruities was, as Boes points out, not only to encourage these Jews to convert to Christianity before execution, but to publicize the Jews’ ‘stubborn’ and ‘bad nature’. Such discriminatory treatment was alleviated by the enlightened eighteenth century, when the prosecution of Jews was no longer conditioned by religious intolerance.

To put this in perspective, Andrea del Col argues that criminal and civil courts in Italy which often judged the same offences as the Inquisition, such as blasphemy and witchcraft, were also more severe in their punishment of Christians. Torture and death sentences were administered more frequently, and offenders had less opportunity to plead their cases. Otto Ullbricht, who has worked on criminal courts in early modern Germany, argues in particular that sexual relations between Jews and Christians, which had been punishable by death in the medieval period, resulted in banishment in the early modern period for both Jews and Christians. Although some offences prosecuted by secular courts were the same as those in Inquisitorial courts, the fundamental difference remained. For the most part, secular courts dealt with criminal offences such as homicide and theft, the Inquisition being above all concerned with matters of faith and religious conformity, especially during our period. We must therefore remain circumspect about drawing conclusions as to the severity of procedure in criminal courts in comparison to Inquisitorial ones.

Although the Inquisition in Modena was seen as a tribunal which was morally aligned to judge, and denunciation was institutionalized within society as a mechanism for propagating that ideology, there is no indication that Christians used delation against Jews on a regular basis. In general, Christians in Modena were not anxious to maintain visible distinctions between themselves and local Jews, nor did the socio-economic position of these Christians account for their
delations. Seventy-seven or 41% of the 186 processi were opened *ex officio* so it is impossible to confirm how the Inquisition uncovered evidence regarding the purported Jewish offenders. Only fifty-three or 28% of the processi were opened by Christians who delated alleged Jewish offenders directly to the tribunal. It seems that it was not the Christians who had regular dealings with Jews, both business and social, who denounced them, but those who had less intimate and frequent contact with them. These delators were not personally acquainted with the Jews they denounced, nor did they always know their names.

Moreover, twenty-nine or 16% of the processi were initiated by a delation of an Inquisitorial constable, a *famigliaro* or a clergyman. At a time when subjects were supposed to be declaring their religious allegiances, so the Church might supervise them effectively, it was still the clergy who imposed the distinctions between the Jews and their neighbouring Christians (who it seems often ignored these rulings). It was these men — confessors, preachers, local friars, priests or Inquisitorial constables, vicars and *famigliari* — who deliberately cultivated delations and were the prime movers behind particular investigations, more conscious of the ecclesiastical regulations demanded by the Holy Office, and keen that congregants apply these rulings at all times. It seems that few delations arose from individual prejudice; most proceeded from the top down rather than from the grassroots up.

Sixteen or 9% of processi were initiated by Jewish delators who seemingly believed that the Holy Office was a suitable location for delations of fellow religionists and neophytes. Here delations were driven by intra-community tensions, anger, frustration or vengeance. Jews delated a variety of offences including blasphemy, desecration of images, possession of prohibited books, hiring of Christian servants and wetnurses, hampering the work of the Inquisition and the moves of neophytes towards Judaism. Some Jews even delated on more than one occasion. Although these delations were in general unreliable, since only five of the sixteen ended in conviction, their actions still speak of a certain mastery of the larger culture and a willingness to go against the wishes of the community, whose leaders were often powerless to maintain social discipline from within.

Eleven processi (6%) were initiated by neophytes, male or female delators who usually appeared in these proceedings as marginal figures, who had failed to integrate into Christian society, but at the same time used the court to demonstrate scorn, aggression and desire for vindication against former religionists who aggravated or bothered them. Only three of the eleven delations ended in the conviction of the Jewish suspect, partly because the Inquisition was continually suspicious of new Christians. The processi where these neophytes appear, either as suspects, delators or even witnesses, reveal a whole underworld of Jews who converted to Christianity in a non-ghetto society, where the Inquisition had
to work so much harder to keep converts away from Jews and the possibility of their relapse to Judaism after baptism. Only two processi were opened by Jews who chose to delate themselves, preferring to save themselves further trouble with the Inquisition.

The processi in general reveal a degree of deep porousness, a physical and social proximity between Christians and Jews in both the city capital and the smaller communities. The two lived closely together, often next door, and had networks of social relationships and an intimate understanding of each other's daily existence. Fraternization took place in the homes of Jews and Christians during social gatherings, festivals, circumcisions or weddings as well as more casual interaction on the piazze, and in shops and taverns. Testimonies uncover a sophisticated network between the two communities, a series of relationships that tied the Christian to the Jew and vice versa, where ecclesiastically forbidden contact was seen as necessary and therefore, in practice, accepted. This interaction had its own rules, regulations and norms.

Christian witnesses were able and willing to testify before the Inquisition on behalf of Jewish suspects. Others were able to produce testimony of the Jews' daily existence and routine. The close social proximity of the two confirms the belief that it was easy for wavering Jews to attach themselves to Christians, should they choose to be lulled into an alternative existence when Jewish life was too stifling or unrewarding. Sometimes young Jewish women would try through their contacts with Christian neighbours to attach themselves to young Christian men, yet these relationships often remained artificial since the Christian 'admirers' frequently meant nothing to them personally but played a fundamental role in facilitating their escape. What this might suggest is a deep understanding between Jew and Christian of their relevant roles and of the needs of each to fulfill them for the other in society. What existed then was a viable underground subculture – a culture that was defined by a broad range of distinctive individual behaviour, a culture that went beyond explicitly Jewish Christian ritual, practice and thought, and not coincidentally a culture that played a role in bringing Jews and Christians together and in keeping them apart. The entrance of the Jews into the Christian world and the Christians into the Jewish world was something desired by both parties as long as it was through the back door, remained marginal, and they both returned to their own worlds after the interaction had been completed.

Moreover, the frequency of proceedings against professing Jews fell sharply after the establishment of the ghetto in December 1638. From 1639 to the abolition of the Inquisition in 1785, there were only 207 processi against Jews, an average of 1.4 trials per year. Although one can argue that this fits in general with the drop in intensity of trial proceedings after 1640 as historians have argued, it is hardly a coincidence that the number of proceedings against Jews decreased
after their enclosure in the ghetto. In 1639 and 1640 there were twelve and nine trials respectively against professing Jews for blasphemy, possessing prohibited books and the hiring of Christian servants, but the number did not rise to such levels again until 1733 and 1734, when in both years there were nine proceedings against Jews for similar offences, as well as a few cases of fraternization, and sexual relations with Christians. The sociological changes and restrictions brought about by ghettoization as well as the increasing marginal role played by the Inquisition in Jewish life accounted for the drop in proceedings after 1640. In her work on Florence, Stefanie Siegmund argues that enclosure brought a communal consciousness among Jews that had not existed previously, where Jews had not only lived in towns and villages throughout Tuscany, as they did in Modena, but had been scattered among Christians with whom they shared intense daily contact. Ghettoization brought about an abrupt change from loosely associated Jewish households to a tightly institutionalized religious community. Confraternities which furthered the Jews’ separation from neighbouring Christians were established quickly after 1638 in response to the demographic, social, economic and political needs that accompanied enclosure. Although, as noted above, the establishment of the massari (lay leaders) of the community had already occurred in 1618, this group of leaders were soon supported by a governing class and economic elite keen to ensure the future of the community and to increase and strengthen the social and religious bonds between Jews. In essence the Jews had established a physical and spatial community, similar to that of the Christian parishes that defined all other areas of the city capital and its adjoining towns and rural areas. Although the ghetto did not interrupt all Jewish–Christian contact (since Christians entered by day to have clothing repaired or to buy second-hand goods), this type of contact became anything but spontaneous. The interaction with Christians that had once been the norm now became irregular. As can be suggested by the small number of trials of Jews living in the Venetian ghetto as well as the drop in appearances of Modenese Jews in Inquisitorial dossiers after 1640, the ghetto walls might well have ensured a world of silence.

After ghettoization, Inquisitors concentrated on the issuing of appropriate licences for Jews, especially regarding their use of domestic servants, and also began to implement the Papal policy of conversion through restriction. When in September 1667, an Inquisitorial edict, ‘Editto del Sant’ Ufficio in ordine à gli hebrei’, was promulgated in Ferrara by Inquisitor Giacinto Maria Granara de Genoa, it set a standard fine of 100 scudi for all offences originally mentioned in Antiqua, although the amount could be raised depending on the severity of the misdeed. The most important change, however, was an additional clause which addressed potential Jewish converts. Those interested in conversion were told to appear before the tribunal, where they would be offered not only physical security
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but financial assistance and spiritual sanctuary. This new course of Inquisitorial action indicates that the papacy had moved beyond rules stipulated by Antiqua that saw Jews as a doctrinal challenge, an immediate social danger, a rival system of devotional acts and an inferior culture, whose adherents’ continuous contact with the dominant Christian society had to be isolated, to a particular policy of encouraging conversion to strengthen and revitalize Catholicism at a time when the growth of rationalism and freedom of conscience threatened the disintegration of the Roman Church.14

By the middle of the eighteenth century, the emergence of modern theories of tolerance and democratic plurality could no longer tolerate the maintenance of ecclesiastical courts, which saw the breach of ecclesiastical regulations as offences punishable by the church. The abolition of the Inquisition in Modena in 1785 was preceded in 1758 by the appointment by Duke Francesco III (1737–80) of a secular magistrate of the Inquisitorial court, charged with ensuring that Inquisitorial prosecution firmly respected sovereign law.15 In 1772 the magistracy was enlarged to include a specific committee, entitled to take over the jurisdiction of all criminal proceedings being prosecuted by the ecclesiastical tribunals. When Duke Ercole III (1780–96) came to abolish the Holy Office in Modena on 6 September 1785 – the day that Giuseppe Maria Orlandi, the last Inquisitor General of Modena and Reggio, died – his execution of this act came with little justification. It seems that he had merely been waiting, out of gentlemanly cordiality, for the death of the Inquisitor to abolish the Holy Office in his capital, thereby finally following the pattern that had already occurred in other states in Italy. Inquisitorial jurisdiction was transferred to the bishop, while the rich archive of Holy Office proceedings and correspondence was passed to the Duke as a temporary provision, which in the end became permanent.

Although measuring the efficacy of the Papal Inquisition throughout the Italian peninsula for different types of offences is still in progress, it has been suggested that specialized and micro-historical studies of proceedings help to clarify how effective the Inquisition was, not only in setting moral and religious regulations, but also in monitoring those who allegedly transgressed these regulations. It also enables us to surmise, perhaps as a last thought, that the Papal Inquisition might well have had a moderating effect on the persecution of Jews in Italy in the early modern period.

Notes
1 Del Col, L’Inquisizione.
2 See Caffiero, Battesimi forzati. See also the ‘Editto sopra gli ebrei’, of Rome, 17 Jan 1793, hanging on the wall of the CAHJP in Jerusalem. This Inquisitorial edict demanded that Jews remain in their ghetto, particularly at night, and not sojourn in places outside, wear the distinguishing badge and have little contact with Christians.
3 This was mentioned by Bernard Cooperman during his lecture ‘The Formation of Community by Conversos and Sefardic Jews in Tuscany from the Middle of the 16th Century’, in the conference titled Expulsion and Forcible Exile Conversion: Their Aftermath in the Life of the Sefardi
Refugees and their Children at the Hebrew University of Jerusalem in January, 2009. In the various archives in Modena, there are few trials of Jews who were summoned before criminal or civil courts. See ASMo Camera Ducale – Maleficio. Libri dei Malefici, delle condanne, dei Ribelli (atti giudiziari) filza 1307–1721. I found two proceedings against practising Jews, Vita di Vita, fined 100 scudi in 1613, and Lià Raberi, fined 60 scudi in July 1619.


6 Boes, ‘Jews’.
7 Ibid., p. 430.
8 Del Col, L’Inquisizione, p. 734.
9 Ulbricht, ‘Criminality’, p. 53.

10 See Trenti, I Processi; and Carla Righi, ‘L’inquisizione ecclesiastica a Modena nel ’700’, in Albano Biondi (ed.), Formazione e controllo dell’opinione pubblica a Modena nel ’700 (Modena: Mucchi, 1986), pp. 51–95. Biondi notes too a significant decline in the number of charges from the 1750s, in the last twenty years of Inquisitorial activity (1766–85). During these years there were only seven registered proceedings.

12 Ibid., 411.
13 ASMoFI Editti e Decreti 1550–1670, busta 270.VII. See also the edict issued in Bologna on 6 June 1733, signed by Father de Andujar, the Dominican Inquisitor of Bologna, which listed dozens of restrictions on Jews, including a ban on hiring either male or female servants.

15 Al Kalak, La Città, p. 136.